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ANNUAL CONTINUATION VOLUME, 1945

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THE ENGLISH AND EMPIRE DIGEST

In addition to the usual citation of the reports of cases in the footnotes, there will be found a reference to the volume, page, and case number at which the case appears in the Digest. Thus:

Bennett v. Stepney Borough Council (1912), 107 L.T. 383;
38 Digest 101, 730.

ALL ENGLAND LAW REPORTS

After cases heard since February, 1936, references are given to this series of reports thus:

Camkin v. Bishop, [1941] 2 All E. R. 713.

PUBLISHERS' NOTE

THIS volume contains the relevant Statutes, Orders, Circulars and Memoranda, Cases and Decisions of the year 1945.

During 1945 some Statutes of considerable importance to local authorities were passed. Chief among these are the Civil Defence (Suspension of Powers) Act, 1945, the Local Government (Boundary Commission) Act, 1945, the Local Authorities Loans Act, 1945, the Compensation of Displaced Officers (War Service) Act, 1945, and the Water Act, 1945. Elections are dealt with in three Acts, namely, the Local Elections (Service Abroad) Act, 1945, the Representation of the People Act, 1945, and the Elections and Jurors Act, 1945.

There are numerous important orders dealing with elections, fire protection, national health and unemployment insurance, police and town and country planning. Other regulations of importance are the Local Authorities Loans (Exemptions) Regulations, 1945, the Local Government (Boundary Commission) Regulations, 1945, the Nurses Agencies Regulations, 1945, the Nurses Regulations, 1945, the Nurses (No. 2) Regulations, 1945, and the Licensing Planning Regulations, 1945.

Various Defence (General) Regulations have been revoked or amended or now have effect by virtue of the Supplies and Services (Transitional Powers) Act, 1945. Regulations 68CA and 68CB are important regulations which have been added to the Defence (General) Regulations, 1939.

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June, 1946.

LIST OF ABBREVIATIONS

All England Reports	All E.R.
Attorney-General	A.-G.
Brothers	..	..	..	..	..	..	Bros.
Company	..	..	..	..	..	..	Co.
Corporation	..	..	..	..	..	..	Corpn.
Home Office	..	..	..	..	..	..	H.O.
Justices	..	..	..	..	..	..	JJ.
Limited	..	..	..	..	..	..	Ltd.
London County Council	..	..	..	..	..	..	L.C.C.
Local Government Act	..	..	..	..	..	..	L.G.A.
Medical Officer of Health	..	..	..	..	..	..	M.O.H.
Ministry of Agriculture and Fisheries	..	..	..	..	..	..	M. of A.
Ministry of Health	..	..	..	..	..	..	M. of H.
Ministry of Transport	..	..	..	..	..	..	M. of T.
Public Health Acts	..	..	..	..	..	..	P.H.A.
Railway Company	..	..	..	..	..	..	Rail. Co.
Rating and Valuation Act	..	..	..	..	..	..	R. & V.A.
Rural District Council	..	..	..	..	..	..	R.D.C.
Statutory Rules and Orders	..	..	..	..	..	..	S. R. & O.
Urban District Council	..	..	..	..	..	..	U.D.C.

TABLE OF CONTENTS

PAGE

<i>Table of Abbreviations</i>	vi
<i>List of Statutes, Orders, etc.</i>	ix
<i>Table of Cases</i>	xiii
<i>Table of Statutes</i>	xvii

ACTIONS BY AND AGAINST LOCAL AUTHORITIES	1
AGRICULTURE	1
AIR RAID PRECAUTIONS	3
ANIMALS	8
AREAS OF LOCAL GOVERNMENT	10
BUILDING	19
BURIAL AND CREMATION	21
CENSUS	26
DISEASE	29
ELECTIONS	31
EVACUATION AND BILLETING	144
FACTORIES	145
FINANCE	158
FIRE PROTECTION	179
FOOD AND DRUGS	187
GAS	193
GOVERNMENT CONTROL	194
HARBOURS	195
HIGHWAYS	196
HOSPITALS	198
HOUSING	215
INFANTS, CHILDREN AND YOUNG PERSONS	233
LAND, ACQUISITION, SALE, ETC., OF	235
LICENSING	295
NATIONAL HEALTH AND UNEMPLOYMENT INSURANCE	311
NUISANCES	341
OFFICERS OF LOCAL AUTHORITIES	341
OPEN SPACES	353
POLICE	363
PRISONS	409
PUBLIC ASSISTANCE	410

TABLE OF CONTENTS.

	PAGE
PUBLIC HEALTH - - - - -	411
PUBLIC SERVICE VEHICLES - - - - -	412
RATES AND RATING - - - - -	416
ROAD TRAFFIC - - - - -	419
STATUTES AND STATUTORY RULES AND ORDERS - - - - -	423
SUPERANNUATION - - - - -	438
TOWN AND COUNTRY PLANNING - - - - -	459
WATER SUPPLY - - - - -	526

LIST OF STATUTES, ORDERS, ETC.

	PAGE
Acquisition of Land (Compensation for War Damaged Land) Rules, 1945	499
Acquisition of Land (Owner-Occupier) Regulations, 1945	477
Acquisition of Land (Valuation for Supplemental Compensation) Regulations, 1945	471
Bills of Quantities for Housing Work : Circular 149/45	230
Building and Civil Engineering Contracting (Hours of Employment) Direction, 1945	20
Building Materials and Housing Act, 1945	217
Camps Act, 1945	353
Cancer Act, 1939 :	
Circular 130/45	30
Circular 150/45	30
Children and Young Persons (Contributions by Local Authorities) Regulations, 1945	233
Children and Young Persons (Voluntary Homes) Regulations, 1945	233
Civil Defence (Employment and Offences) Order, 1945	6
Civil Defence (Employment and Offences) (No. 2) Order, 1945	7
Civil Defence (Suspension of Powers) Act, 1945	3
Compensation of Displaced Officers (War Service) Act, 1945	341
Cost of Living Bonus for Local Authorities' Non-Industrial Staffs: Admissibility for Purposes of Grant or Reimbursement by the Exchequer : Circular 72/45	176
County and Borough Election Forms Regulations, 1945	141
Defence (Agriculture and Fisheries) Regulations, 1939, amended	2
Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942, Regula- tion 3 amended	25
Defence (Evacuated Areas) Regulations, 1940 :	
Regulation 4 amended	144
Regulation 4A	144
Defence (General) Regulations, 1939 :	
Regulation 40AC amended	368
54B amended	194
68CA	227
68CB	228
Defence (Sale of Food) Regulations, 1943, Regulation 3 amended	190
Distribution of Industry Act, 1945	145
Educational Provision for Civilian Patients in Hospitals and Sanatoria : Circular 5/45	207
Elections and Jurors Act, 1945	74
Electoral Registration (Local Elections) Regulations, 1945	139
Electoral Registration Regulations, 1945	94
Electoral Registration (No. 2) Regulations, 1945	116
Emergency Powers (Defence) Built-Up Areas (Revocation) Order, 1945	422
Emergency Powers (Defence) Road Vehicles and Drivers Order, 1945	412
Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1945	412
Emergency Powers (Defence) Road Vehicles and Drivers (No. 2) Order, 1945	414
Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 2) Order, 1945	415
Finance (No. 2) Act, 1945	164
Forestry Act, 1945	353
Further Regulations made by The Public Works Loan Commissioners, and Approved by the Treasury Pursuant to Section 41 of the Public Works Loans Act, 1875	171
Gas Fund (Contribution) Order, 1945	193
General Licence in Relation to Building Undertakings and Civil Engineering Contract- ing Undertakings	19
House of Commons (Boundary Commissions) (Appointed Day) Order, 1945	143
Housing (Temporary Accommodation) Act, 1945	215
Increase of Pensions (General) (Amendment) Regulations, 1945	454
Licensing Planning Regulations, 1945	306
Licensing Planning (Temporary Provisions) Act, 1945	296
Local Authorities Loans Act, 1945	158
Local Authorities Loans Act, 1945 (Date of Commencement) Order, 1945	168
Local Authorities Loans (Exemptions) Regulations, 1945	169
Local Elections (Service Abroad) Act, 1945	70
Local Elections (Supplementary Provisions) Order, 1945	127
Local Elections (Supplementary Provisions) (No. 2) Order, 1945	144
Local Government (Boundary Commission) Act, 1945	10

	PAGE
Local Government (Boundary Commission) Regulations, 1945	16
Ministry of National Insurance (Health Insurance and Pensions) Order, 1945	311
Ministry of National Insurance (Unemployment Insurance and Assistance) Order, 1945	332
Motor Vehicles (Authorisation of Special Types) Order, 1945	421
Motor Vehicles (Restriction of Use) (Revocation) Order, 1945	422
National Fire Service (Alteration of Fire Areas) Regulations, 1945	180
National Fire Service (General) Regulations, 1945	181
National Fire Service (General) (No. 2) Regulations, 1945	182
National Fire Service (General) (No. 3) Regulations, 1945	184
National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1945	186
National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1945	179
National Fire Service (Preservation of Pensions) (Police Firemen) (No. 2) Regulations, 1945	185
National Registration Amendment Regulations, 1945	26
National Registration Amendment (No. 2) Regulations, 1945	28
National Registration (War Workers) Regulations, 1945	115
Nurses Act, 1943 (Commencement) Order, 1945	199
Nurses Act, 1945	198
Nurses Acts, 1943 and 1945 : Circular 97/45	209
Nurses Agencies Regulations, 1945	202
Nurses Regulations, 1945	200
Pensions (Increase) Act, 1944 : Circular 108/45	456
Police Amalgamation (Wilts) Order, 1945	398
Police (Employment and Offences) Order, 1945	398
Police (Employment and Offences) (No. 2) Order, 1945	399
Police (His Majesty's Inspectors of Constabulary) Act, 1945	364
Police (Overseas Service) Act, 1945	365
Police Regulations of March 27, 1945	370
Police Regulations of December 21, 1945	400
Police War Reserve Rules, 1945	373
Police War Reserve (No. 2) Rules, 1945	406
Police (Women) Regulations of March 27, 1945	371
Police (Women) Regulations of December 21, 1945	403
Pre-Nursing Courses in Secondary and Technical Schools : Circular 162/45	213
Preserves Order, 1944, amended	187
Prison Rules, 1945	409
Public Assistance (Amendment) Order, 1945	410
Public Utility Undertakings (Control of Wreck, etc.) (Revocation) Order, 1945	195
Public Utility Undertakings (Prevention of Publications) (Revocation) Order, 1945	195
Public Works Loans (Fees) Regulations, 1945	168
Registration Officers Order, 1945	131
Representation of the People Act, 1945	31
Requisitioned Land and War Works Act, 1945	235
Reservoirs Regulations, 1945	617
Returning Officers Order, 1945	132
Road Transport Lighting (Cycles) Act, 1945	419
Rural District Councillors Election Rules, 1945	143
Special Constables Order, 1945	369
Special Constables Order (No. 2), 1945	399
Statutory Orders (Special Procedure) Act, 1945	423
Submission of Tenders for the Erection of Houses and Flats : Circular 104/45	229
Memo. 289/Housing	230
Teachers (Superannuation) Act, 1945	438
Town and Country Planning Act, 1944, Compulsory Purchase (Appointed Day) Order, 1945	512
Town and Country Planning Act, 1944, Compulsory Purchase (Contemporaneous Procedure) Regulations, 1945	481
Town and Country Planning Act, 1944 (Particulars and Form of Orders and Notices) Regulations, 1945	481
Town and Country Planning Act, 1944 (Registration of Orders) Rules, 1945	512
Town and Country Planning Amendment Regulations, 1945	476
Town and Country Planning Amendment Regulations (No. 2), 1945	511
Town and Country Planning (Development by Authorities) Regulations, 1945	475
Town and Country Planning General (Interim Development) Direction, 1945	474
Town and Country Planning (General Interim Development) Order, 1945	460
Town and Country Planning (General Transitional) Amendment Order, 1945	510
Treasury Minute, dated 12th June, 1945, Fixing Rates of Interest on Local Loans	172
Treasury Note on Procedure for Applications to Public Works Loan Commissioners	174

	PAGE
Treasury Order Prescribing Scale of Maximum Charges of Returning Officers at Parliamentary Elections in England and Wales	134
Tuberculosis : Circular 100/45	29
Unemployment Insurance (Emergency Powers) (Amendment) Regulations, 1945	340
Urban District Councillors Election Rules, 1945	142
Water Act, 1945	526
Water (Compulsory Purchase) Regulations, 1945	618
Welsh Church (Burial Grounds) Act, 1945	21
Wild Birds Protection (Administrative County of Kent) Order, 1945	10
Wild Birds Protection (County Borough of Wallasey) Order, 1945	8
Women's Auxiliary Police Corps Rules, 1945	384
Women's Auxiliary Police Corps (No. 2) Rules, 1945	407

TABLE OF CASES

A

	PAGE
Algar v. Middlesex County Council, [1945] 2 All E. R. 243 ; 173 L. T. 143 ; 109 J. P. 213 ; 89 Sol. Jo. 371 ; 43 L. G. R. 155	459
Allen Newport, Ltd., <i>Ex parte</i> . See R. v. Newmarket Assessment Committee, <i>Ex parte</i> Allen Newport, Ltd.	
A.-G. v. Dorking Union Guardians (1882), 20 Ch. D. 595 ; 51 L. J. (Ch.) 585 ; 46 L. T. 573 ; 30 W. R. 579, C. A.	341

B

Baker v. Bethnal Green Corpn., [1944] 2 All E. R. 301 ; 42 L. G. R. 311 ; affirmed, [1945] 1 All E. R. 135 ; 109 J. P. 72 ; 43 L. G. R. 75, C. A.	8
Baldock v. Westminster City Council (1918), 88 L. J. (K. B.) 502 ; 120 L. T. 470 ; 83 J. P. 98 ; 35 T. L. R. 188 ; 17 L. G. R. 190, C. A.	197
Bayer Products, Ltd., <i>Ex parte</i> . See R. v. Comptroller General of Patents, <i>Ex parte</i> Bayer Products, Ltd.	
Benabo v. Wood Green Borough Council, [1946] K. B. 38 ; [1945] 2 All E. R. 162 ; 114 L. J. (K. B.) 391 ; 173 L. T. 123 ; 109 J. P. 222 ; 61 T. L. R. 486 ; 89 Sol. Jo. 370 ; 43 L. G. R. 150	232
Brown's Mortgage, <i>Re</i> , Wallasey Corpn. v. A.-G., [1945] Ch. 166 ; [1945] 1 All E. R. 397 ; 114 L. J. (Ch.) 81 ; 172 L. T. 210 ; 109 J. P. 105 ; 89 Sol. Jo. 106 ; 43 L. G. R. 66 ; <i>sub nom.</i> Wallasey Corpn. v. A.-G., 61 T. L. R. 230	231

C

Carltona, Ltd. v. Works Comrs., [1943] 2 All E. R. 560, C. A.	244
---	-----

D

De Tehihatchef v. Salerni Coupling, Ltd., [1932] 1 Ch. 330 ; 101 L. J. (Ch.) 209 ; 146 L. T. 505	459
--	-----

E

Ellis and Ruislip-Northwood U.D.C., [1920] 1 K. B. 343 ; 88 L. J. (K. B.) 1258 ; 122 L. T. 98 ; 83 J. P. 273 ; 35 T. L. R. 673 ; 17 L. G. R. 607, C. A.	251
---	-----

F

Fisher v. Ruislip-Northwood U.D.C. and Middlesex County Council, [1945] K. B. 584 ; [1945] 2 All E. R. 458 ; 115 L. J. (K. B.) 9 ; 173 L. T. 261 ; 110 J. P. 1 ; 62 T. L. R. 1 ; 89 Sol. Jo. 434 ; 43 L. G. R. 224, C. A.	198
Foster v. Gillingham Corpn., [1942] 1 All E. R. 304 ; 111 L. J. (K. B.) 364 ; 106 J. P. 181 ; 40 L. G. R. 115, C. A.	198
Fox v. Newcastle-upon-Tyne City Council, [1941] 2 K. B. 120 ; [1941] 2 All E. R. 563 ; 110 L. J. (K. B.) 649 ; 165 L. T. 90 ; 105 J. P. 404 ; 57 T. L. R. 602 ; 39 L. G. R. 245, C. A.	198

G

Glossop v. Heston and Isleworth Local Board (1879), 12 Ch. D. 102 ; 49 L. J. (Ch.) 89 ; 40 L. T. 736 ; 44 J. P. 36 ; 28 W. R. 111, C. A.	341
Great Central Rail. Co. v. Hewlett, [1916] A. C. 511 ; 85 L. J. (K. B.) 1705 ; 115 L. T. 349 ; 32 T. L. R. 707 ; 60 Sol. Jo. 678 ; 14 L. G. R. 1015	197
Greenfield v. London and North Eastern Rail. Co., [1945] K. B. 89 ; [1944] 2 All E. R. 438 ; 114 L. J. (K. B.) 252 ; 171 L. T. 337 ; 61 T. L. R. 44, C. A.	8

H

Haigh v. Deudraeth Rural District Council, [1945] 2 All E. R. 661 ; 174 L. T. 243 ; 110 J. P. 97 ; 89 Sol. Jo. 579	341
Heaver, <i>Ex parte</i> . See R. v. Cheshire JJ., <i>Ex parte</i> Heaver.	
Housing Act, <i>Re</i> , <i>Re</i> London County Council (Riley Street, Chelsea, No. 1) Order, 1938, [1945] 2 All E. R. 484 ; 173 L. T. 253 ; 43 L. G. R. 292 ; <i>sub nom.</i> Gilbert v. Minister of Health, 109 J. P. 279 ; 61 T. L. R. 582	232

J

	PAGE
Jones v. Llanrwst Urban Council, [1911] 1 Ch. 393; 80 L. J. (Ch.) 145; 103 L. T. 751; 75 J. P. 68; 27 T. L. R. 133; 55 Sol. Jo. 125; 9 L. G. R. 222	341

L

Lally v. Durham County Council, [1945] 1 All E. R. 311; 43 L. G. R. 69, C. A.	352
Lewys v. Burnett and Dunbar, [1945] 2 All E. R. 553; 173 L. T. 307; 61 T. L. R. 527; 89 Sol. Jo. 415; 43 L. G. R. 186; <i>sub nom.</i> Lewys v. Beccles Corpn., 109 J. P. 253	197
Liversidge v. Anderson, [1942] A. C. 206; [1941] 3 All E. R. 338; 110 L. J. (K. B.) 724; 166 L. T. 1; 58 T. L. R. 35; 85 Sol. Jo. 439	244
London County Council (Riley Street, Chelsea, No. 1) Order, 1938, <i>Re.</i> See Housing Act, <i>Re.</i> , etc.	
Lys v. Stepney Borough Council, [1940] 2 K. B. 662; [1940] 4 All E. R. 75; 163 L. T. 328; 104 J. P. 419; 57 T. L. R. 4; reversed, [1941] 1 K. B. 134; [1940] 4 All E. R. 463; 110 L. J. (K. B.) 75; 164 L. T. 195; 105 J. P. 161; 57 T. L. R. 150; 84 Sol. Jo. 694; 39 L. G. R. 31, C. A.	198

M

McVittie v. Bolton Corpn., [1945] K. B. 281; [1945] 1 All E. R. 379; 114 L. J. (K. B.) 177; 172 L. T. 263; 109 J. P. 97; 61 T. L. R. 267; 43 L. G. R. 53, C. A.	411
Mersey Docks and Harbour Board v. Birkenhead Assessment Committee, [1901] A. C. 175; 70 L. J. (K. B.) 584; 84 L. T. 542; 65 J. P. 579; 49 W. R. 610; 17 T. L. R. 444	244
Moody v. Poole Corpn. See Poole Corpn. v. Moody.	
Morrison v. Sheffield Corpn., [1917] 2 K. B. 866; 86 L. J. (K. B.) 1456; 117 L. T. 520; 81 J. P. 277; 33 T. L. R. 492; 61 Sol. Jo. 611; 15 L. G. R. 667, C. A.	197, 198

N

Noss Farm Products, Ltd. v. Lilico, [1945] 2 All E. R. 609; [1945] W. N. 179; 173 L. T. 251; 109 J. P. 211; 61 T. L. R. 488; 89 Sol. Jo. 413; 43 L. G. R. 289	192
---	-----

P

Perrins v. Smith, [1946] K. B. 90; [1945] 2 All E. R. 706; 174 L. T. 38; 110 J. P. 91; 62 T. L. R. 72; 90 Sol. Jo. 44	193
Pharmaceutical Society of Great Britain v. Heppells (1932), Ltd., [1945] K. B. 454; [1945] 2 All E. R. 33; 114 L. J. (K. B.) 520; 173 L. T. 286; 109 J. P. 162; 61 T. L. R. 378; 89 Sol. Jo. 282; 43 L. G. R. 167	191
Point of Ayr Collieries, Ltd. v. Lloyd-George, [1943] 2 All E. R. 546, C. A.	244
Polkinghorn v. Lambeth Borough Council, [1938] 1 All E. R. 339; 158 L. T. 127; 102 J. P. 131; 54 T. L. R. 345; 82 Sol. Jo. 94; 36 L. G. R. 130, C. A.	198
Poole Corpn. v. Moody, [1945] K. B. 350; 114 L. J. (K. B.) 305; 172 L. T. 355; 109 J. P. 133; 61 T. L. R. 326; 43 L. G. R. 91; <i>sub nom.</i> Moody v. Poole Corpn., [1945] 1 All E. R. 536, C. A.	1
Pratt v. North West Norfolk Assessment Committee and Norfolk County Valuation Committee, [1945] 2 All E. R. 78; 114 L. J. (K. B.) 321; 109 J. P. 182; 61 T. L. R. 404; 43 L. G. R. 104; reversed, [1946] K. B. 93; [1946] 1 All E. R. 4; 115 L. J. (K. B.) 193; 174 L. T. 3; 110 J. P. 106; 62 T. L. R. 86; 89 Sol. Jo. 590; 44 L. G. R. 33, C. A.	418

R

R. v. Board of Education, [1910] 2 K. B. 165; 79 L. J. (K. B.) 595; 102 L. T. 578; 74 J. P. 259; 26 T. L. R. 422; 8 L. G. R. 549, C. A.; affirmed <i>sub nom.</i> Board of Education v. Rice, [1911] A. C. 179; 80 L. J. (K. B.) 796; 104 L. T. 689; 75 J. P. 393; 27 T. L. R. 378; 55 Sol. Jo. 440; 9 L. G. R. 652	244
— v. Cheshire J.J., <i>Ex parte</i> Heaver (1912), 108 L. T. 374; 77 J. P. 33; 29 T. L. R. 23	244
— v. Comptroller General of Patents, <i>Ex parte</i> Bayer Products, Ltd., [1941] 2 K. B. 306; [1941] 2 All E. R. 677; 111 L. J. (K. B.) 117; 165 L. T. 278; 58 R. P. C. 251, C. A.	244
— v. Newmarket Assessment Committee, <i>Ex parte</i> Allen Newport, Ltd., [1945] 2 All E. R. 371; 173 L. T. 179; 109 J. P. 234; 89 Sol. Jo. 447; 43 L. G. R. 175	419
— v. St. Pancras Vestry (1890), 24 Q. B. D. 371; 59 L. J. (Q. B.) 244; 62 L. T. 440; 54 J. P. 389; 38 W. R. 311; 6 T. L. R. 175, C. A.	244
Roberts v. Cunningham (1925), 134 L. T. 421; 90 J. P. 32; 42 T. L. R. 162; 24 L. G. R. 61	244
— v. Hopwood, [1925] A. C. 578; 94 L. J. (K. B.) 542; 133 L. T. 289; 89 J. P. 105; 41 T. L. R. 436; 69 Sol. Jo. 475; 23 L. G. R. 337	244

S

	PAGE
Sheppard v. Glossop Corpn., [1921] 3 K. B. 132 ; 90 L. J. (K. B.) 994 ; 125 L. T. 520 ; 85 J. P. 205 ; 37 T. L. R. 604 ; 65 Sol. Jo. 472 ; 19 L. G. R. 357, C. A.	197
Sherwood v. Cox, Sherwood v. Day, [1945] K. B. 549 ; [1945] 2 All E. R. 92 ; 114 L. J. (K. B.) 333 ; 173 L. T. 323 ; 109 J. P. 142 ; 61 T. L. R. 437 ; 89 Sol. Jo. 328 ; 43 L. G. R. 116	192
Southwell v. Ross, [1945] 2 All E. R. 590 ; 173 L. T. 363 ; 110 J. P. 79 ; 61 T. L. R. 548 ; 89 Sol. Jo. 467	192

U

Upper Agbrigg Assessment Committee v. Bents Brewery Co., Ltd., [1945] K. B. 196 ; [1945] 1 All E. R. 338 ; 114 L. J. (K. B.) 257 ; 172 L. T. 166 ; 61 T. L. R. 253 ; <i>sub nom.</i> Bents Brewery Co., Ltd. v. Upper Agbrigg Assessment Committee, 109 J. P. 84, C. A.	417
--	-----

W

Wallasey Corpn. v. A.-G. <i>See</i> Brown's Mortgage, <i>Re</i> , Wallasey Corpn. v. A.-G.	
Watson v. Coupland, [1945] 1 All E. R. 217 ; 109 J. P. 90 ; 43 L. G. R. 60	191
Wodehouse v. Levy, [1940] 2 K. B. 298 ; [1940] 3 All E. R. 137 ; reversed, [1940] 2 K. B. 561 ; [1940] 4 All E. R. 14 ; 109 L. J. (K. B.) 807 ; 163 L. T. 227 ; 104 J. P. 403 ; 56 T. L. R. 1011 ; 84 Sol. Jo. 694 ; 38 L. G. R. 400, C. A.	198

Y

Young v. Bristol Aeroplane Co., Ltd., [1944] K. B. 718 ; [1944] 2 All E. R. 293 ; 113 L. J. (K. B.) 513 ; 171 L. T. 113 ; 60 T. L. R. 536 ; 88 Sol. Jo. 332 ; 37 B. W. C. C. 51, C. A. ; affirmed, [1946] A. C. 163 ; [1946] 1 All E. R. 98 ; 115 L. J. (K. B.) 63 ; 174 L. T. 39 ; 62 T. L. R. 99	198
---	-----

TABLE OF STATUTES

References to Statutes apply to Halsbury's Statutes

	PAGE		PAGE
14 Car. 2, c. 4—6 <i>Statutes</i> 523. (Act of Uniformity, 1662)	21	10 & 11 Vict. c. 17—20 <i>Statutes</i> 186. (Waterworks Clauses Act, 1847)— <i>contd.</i>	
1 & 2 Will. 4, c. 41—12 <i>Statutes</i> 759. (Special Constables Act, 1831)	369, 399	s. 6	611
4 & 5 Will. 4, c. 24—16 <i>Statutes</i> 122. (Superannuation Act, 1834)	226	s. 11	583
5 & 6 Vict. c. 27—6 <i>Statutes</i> 823. (Ecclesiastical Leases Act, 1842)	362	s. 12	584, 611
5 & 6 Vict. c. 94—3 <i>Statutes</i> 467. (Defence Act, 1842)	243, 245, 288	s. 13	585
ss. 5, 6	273, 295	ss. 18, 19	587
s. 7	273	s. 22	587, 588
s. 8	273, 295	ss. 23—26	588
ss. 9, 12—14	273	s. 27	589
s. 16	273, 275	s. 28	589, 590
s. 19	273	s. 29	589
s. 23	275, 295	ss. 30, 31	591
ss. 34, 36	273	ss. 32—34	592
s. 37	295	s. 35	593, 595, 618
s. 39	273, 295	s. 36	593
s. 41	295	ss. 37—41	594
8 & 9 Vict. c. 16—2 <i>Statutes</i> 648. (Companies Clauses Consolidation Act, 1845)	564	s. 43	593, 594, 595
8 & 9 Vict. c. 18—2 <i>Statutes</i> 1113. (Lands Clauses Consolidation Act, 1845)	157, 239, 267, 360, 361, 362	s. 48	595
s. 18	488, 495	s. 53	598
s. 19	156, 157	ss. 54—56	602
s. 68	216, 217	s. 57	603
ss. 84—90	156, 157, 490, 497	ss. 58—60	604
s. 92	156, 157	s. 61	545
ss. 99—107	549	ss. 62—67	606
s. 123	360, 361	s. 68	561, 598
ss. 127—132	156, 157, 361, 549, 577, 618	s. 69	600
ss. 133, 150, 151	156, 157, 361	ss. 70, 71	601
8 & 9 Vict. c. 19. (Lands Clauses Consolidation (Scotland) Act, 1845) 267, 362		s. 72	600
ss. 18, 83—88, 90	157	s. 74	561
s. 116	360	s. 75	607
ss. 120—125, 127, 142, 143	157, 360	ss. 76—79	608
8 & 9 Vict. c. 20—14 <i>Statutes</i> 30. (Railways Clauses Consolidation Act, 1845)	157, 269, 354, 361	s. 83	564
ss. 77—85	153, 157, 360, 361, 485, 487, 488	ss. 90, 91	612
8 & 9 Vict. c. 33. (Railways Clauses Consolidation (Scotland) Act, 1845) 157		10 & 11 Vict. c. 67—12 <i>Statutes</i> 481. (House of Commons Costs Taxation Act, 1847)	429
s. 6	217	10 & 11 Vict. c. 111—2 <i>Statutes</i> 524. (Inclosure Act, 1847)	157
ss. 70—78	157, 360	11 & 12 Vict. c. 99—2 <i>Statutes</i> 527. (Inclosure Act, 1848)	157
8 & 9 Vict. c. 118—2 <i>Statutes</i> 443. (Inclosure Act, 1845)	155, 157, 288, 292, 295, 423, 550	12 & 13 Vict. c. 45—11 <i>Statutes</i> 296. (Quarter Sessions Act, 1849) (Baines' Act), s. 11	417
9 & 10 Vict. c. 70—2 <i>Statutes</i> 518. (Inclosure Act, 1846)	157	12 & 13 Vict. c. 78—12 <i>Statutes</i> 485. (House of Lords Costs Taxation Act, 1849)	429
10 & 11 Vict. c. 17—20 <i>Statutes</i> 186. (Waterworks Clauses Act, 1847)	527, 528, 545	12 & 13 Vict. c. 83—2 <i>Statutes</i> 533. (Inclosure Act, 1849)	157
		12 & 13 Vict. c. xciv, s. 5	42
		14 & 15 Vict. c. 53—2 <i>Statutes</i> 538. (Inclosure Commissioners Act, 1851)	157
		15 & 16 Vict. c. 79—2 <i>Statutes</i> 539. (Inclosure Act, 1852)	157
		17 & 18 Vict. c. 67—3 <i>Statutes</i> 484. (Defence Act, 1854)	295
		17 & 18 Vict. c. 97—2 <i>Statutes</i> 551. (Inclosure Act, 1854)	157

	PAGE		PAGE
18 & 19 Vict. c. 117—3 <i>Statutes</i> 365. (Ordnance Board Transfer Act, 1855)	245, 273	33 & 34 Vict. c. 69—8 <i>Statutes</i> 1254. (Gas and Waterworks Facilities Act, 1870)	527, 535 535, 548
19 & 20 Vict. c. 69—12 <i>Statutes</i> 812. (County and Borough Police Act, 1856)	364 364	33 & 34 Vict. c. 78—20 <i>Statutes</i> 19. (Tramways Act, 1870), s. 32	592
20 & 21 Vict. c. 31—2 <i>Statutes</i> 557. (Inclosure Act, 1857)	157	34 & 35 Vict. c. 3—12 <i>Statutes</i> 506. (Parliamentary Costs Act, 1871)	429
20 & 21 Vict. c. 72. (Police (Scotland) Act, 1857)	364 364	34 & 35 Vict. c. 17—19 <i>Statutes</i> 417. (Bank Holidays Act, 1871)	54, 108
21 & 22 Vict. c. 57—6 <i>Statutes</i> 880. (Ecclesiastical Leasing Act, 1858), s. 13	362	35 & 36 Vict. c. 33—7 <i>Statutes</i> 427. (Ballot Act, 1872)— s. 1	67 58
22 Vict. c. 12—3 <i>Statutes</i> 486. (Defence Act, 1859)	295 273	s. 24	54, 82, 84, 107, 108
22 & 23 Vict. c. 43—2 <i>Statutes</i> 562. (Inclosure Act, 1859)	157	36 & 37 Vict. c. 68—17 <i>Statutes</i> 569. (Militia (Lands and Buildings) Act, 1873), s. 7	288, 295
23 & 24 Vict. c. 106—2 <i>Statutes</i> 1166. (Lands Clauses Consolidation Acts Amendment Act, 1860)	157, 362 275, 288, 295	36 & 37 Vict. c. 72—8 <i>Statutes</i> 500. (Defence Acts Amendment Act, 1873)	295 273
23 & 24 Vict. c. 112—3 <i>Statutes</i> 488. (Defence Act, 1860)— s. 23	295	s. 1	273
ss. 29—31	273	36 & 37 Vict. c. 89—8 <i>Statutes</i> 1275. (Gas and Water Works Facilities, Act, 1870, Amendment Act, 1873)	527 567
s. 46	295	s. 12	567
s. 47	275	37 & 38 Vict. c. 88—15 <i>Statutes</i> 737. (Births and Deaths Registration Act, 1874), ss. 24, 25	458
24 & 25 Vict. c. 47—18 <i>Statutes</i> 105. (Harbours and Passing Tolls, etc., Act, 1861)	173	38 & 39 Vict. c. 55—13 <i>Statutes</i> 623. (Public Health Act, 1875)— s. 161	197
26 & 27 Vict. c. 93—20 <i>Statutes</i> 220. (Waterworks Clauses Act, 1863)	527, 528	s. 176	268
s. 14	559	s. 303	556
s. 15	610	38 & 39 Vict. c. 83—12 <i>Statutes</i> 242. (Local Loans Act, 1875)	164, 165, 171, 433
s. 17	603	38 & 39 Vict. c. 89—12 <i>Statutes</i> 255. (Public Works Loans Act, 1875)	159, 160, 172
s. 18	604	s. 4	160
s. 19	605	s. 9	160, 172
s. 20	604	s. 11	160, 161
s. 21	561	s. 37	161
26 & 27 Vict. c. 112—19 <i>Statutes</i> 219. (Telegraph Act, 1863)	238, 264, 265	s. 41	160, 171
s. 7	239, 266	39 & 40 Vict. c. 56—2 <i>Statutes</i> 579. (Commons Act, 1876)	157
ss. 12, 13	265	39 & 40 Vict. c. 75—20 <i>Statutes</i> 316. (Rivers Pollution Prevention Act, 1876)	570, 582
ss. 21, 22	265, 266	41 & 42 Vict. c. 52. (Public Health (Ireland) Act, 1878), ss. 209, 210, 212, 213	294
s. 23	265	41 & 42 Vict. c. 56—2 <i>Statutes</i> 601. (Commons (Expenses) Act, 1878)	157
s. 30	265, 266	41 & 42 Vict. c. 76—19 <i>Statutes</i> 261. (Telegraph Act, 1878)	238, 289, 583, 605
27 & 28 Vict. c. 57—3 <i>Statutes</i> 370. (Admiralty Lands and Works Act, 1864)	273	s. 2	265
ss. 9—19	288	ss. 3—5	238, 265
28 & 29 Vict. c. 27—12 <i>Statutes</i> 498. (Parliamentary Costs Act, 1865)	429	s. 7	571
30 & 31 Vict. c. 1. (City of London Municipal Elections Amendment Act, 1867)	42	42 & 43 Vict. c. 17—12 <i>Statutes</i> 507. (House of Commons Costs Taxation Act, 1879), s. 2	429
s. 5	42	42 & 43 Vict. c. 37—2 <i>Statutes</i> 602. (Commons Act, 1879)	157
31 & 32 Vict. c. 89—2 <i>Statutes</i> 575. (Inclosure, etc., Expenses Act, 1868)	157	43 & 44 Vict. c. 35—1 <i>Statutes</i> 355. (Wild Birds Protection Act, 1880)	8, 9, 10
32 & 33 Vict. c. 18—2 <i>Statutes</i> 1168. (Lands Clauses Consolidation Act, 1869)	157, 362	Sched.	9
32 & 33 Vict. c. 67—14 <i>Statutes</i> 572. (Valuation (Metropolis) Act, 1869), s. 47	601		
32 & 33 Vict. c. 73—19 <i>Statutes</i> 251. (Telegraph Act, 1869)	584		

PAGE	PAGE
43 & 44 Vict. c. 41—2 <i>Statutes</i> 242. (Burial Laws Amendment Act, 1880) 24 s. 10 24	54 & 55 Vict. c. 66. (Local Registration of Title (Ireland) Act, 1891) 294 s. 81 295
45 & 46 Vict. c. 15—2 <i>Statutes</i> 603. (Commonable Rights Compensation Act, 1882) 155, 157, 288, 292, 295, 550	55 & 56 Vict. c. 40—16 <i>Statutes</i> 686. (Superannuation Act, 1892) 359
45 & 46 Vict. c. 50—10 <i>Statutes</i> 638. (Municipal Corporations Act, 1882), s. 196 369, 399	55 & 56 Vict. c. 57—9 <i>Statutes</i> 193. (Private Street Works Act, 1892), ss. 6, 13 1
45 & 46 Vict. c. 56—7 <i>Statutes</i> 686. (Electric Lighting Act, 1882) 585 s. 15 605	55 & 56 Vict. c. 59—19 <i>Statutes</i> 283. (Telegraph Act, 1892), s. 3 265
46 & 47 Vict. c. 15—2 <i>Statutes</i> 1168. (Lands Clauses (Umpire) Act, 1883) 157, 362	56 & 57 Vict. c. 66—18 <i>Statutes</i> 1016. (Rules Publication Act, 1893) 89 s. 1 5, 44, 164, 346, 366
46 & 47 Vict. c. 51—7 <i>Statutes</i> 465. (Corrupt and Illegal Practices Prevention Act, 1883)— s. 39 68 Sched. I 56, 108	56 & 57 Vict. c. 71—17 <i>Statutes</i> 612. (Sale of Goods Act, 1893), s. 1 190
47 & 48 Vict. c. 70—7 <i>Statutes</i> 511. (Municipal Elections (Corrupt and Illegal Practices) Act, 1884). 73 s. 21 71, 72, 74	57 & 58 Vict. c. 60—18 <i>Statutes</i> 162. (Merchant Shipping Act, 1894) 470
50 & 51 Vict. c. 16—12 <i>Statutes</i> 282. (National Debt and Local Loans Act, 1887) 158 s. 8 158, 160	58 & 59 Vict. c. 11—2 <i>Statutes</i> 1169. (Lands Clauses (Taxation of Costs) Act, 1895) 362
50 & 51 Vict. c. 21—20 <i>Statutes</i> 248. (Water Companies (Regulation of Powers) Act, 1887), ss. 4, 5 561	58 & 59 Vict. c. 35—17 <i>Statutes</i> 585. (Naval Works Act, 1895), s. 2 245
51 & 52 Vict. c. 41—10 <i>Statutes</i> 697. (Local Government Act, 1888), s. 14 570, 582	59 & 60 Vict. c. 50—12 <i>Statutes</i> 949. (Poor Law Officers' Superannuation Act, 1896) 458
52 & 53 Vict. c. 49—1 <i>Statutes</i> 453. (Arbitration Act, 1889) 254, 292, 294	60 & 61 Vict. c. 51—12 <i>Statutes</i> 296. (Public Works Loans Act, 1897), s. 1 172
52 & 53 Vict. c. 50. (Local Government (Scotland) Act, 1889)— s. 67 164, 170 s. 120 348	61 & 62 Vict. c. 37. (Local Government (Ireland) Act, 1898), s. 96 92
52 & 53 Vict. c. 63—18 <i>Statutes</i> 902. (Interpretation Act, 1889) 17, 26, 28, 96, 115, 117, 127, 139, 169, 180, 199, 200, 202, 233, 307, 313, 334, 340, 422, 454, 462, 471, 475, 476, 478, 481, 500, 511, 513 s. 23 362 s. 26 151 s. 38 149, 306, 443	61 & 62 Vict. c. 41—13 <i>Statutes</i> 369. (Prison Act, 1898), s. 2 409
52 & 53 Vict. c. xv. (Local Government Board's Provisional Orders Confirmation Act, 1889) 181	61 & 62 Vict. c. 57—7 <i>Statutes</i> 292. (Elementary School Teachers (Superannuation) Act, 1898) 439, 441, 449, 450, 458
52 & 53 Vict. c. cxvi. (Local Government Board's Provisional Orders Confirmation (No. 15) Act, 1889) 181	ss. 1, 11 449
53 Vict. c. 5—11 <i>Statutes</i> 17. (Lunacy Act, 1890) 201	62 & 63 Vict. c. 19—7 <i>Statutes</i> 706. (Electric Lighting (Clauses) Act, 1899), Sched. 605
53 & 54 Vict. c. 55. (Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890), s. 25 74	62 & 63 Vict. c. 42—17 <i>Statutes</i> 596. (Naval Works Act, 1899) 245
54 & 55 Vict. c. 34. (Local Authorities Loans (Scotland) Act, 1891) 162, 164, 165, 433	62 & 63 Vict. c. 44—13 <i>Statutes</i> 881. (Small Dwellings Acquisition Act, 1899) 218, 222, 223, 226, 231 ss. 3, 5, 6 231
54 & 55 Vict. c. 38—16 <i>Statutes</i> 609. (Stamp Duties Management Act, 1891), ss. 3, 7 329, 339	63 & 64 Vict. c. 49. (Town Councils (Scotland) Act, 1900) 42 s. 13 44 s. 42 43, 44
	2 Edw. 7, c. 17—11 <i>Statutes</i> 729. (Midwives Act, 1902) 200
	3 Edw. 7, c. 25. (Licensing (Scotland) Act, 1903) 292
	3 Edw. 7, c. 33. (Burgh Police (Scotland) Act, 1903), s. 49 164, 170
	3 Edw. 7, c. 34. (Town Councils (Scotland) Act, 1903), s. 7 43
	4 Edw. 7, c. 24—19 <i>Statutes</i> 239. (Wireless Telegraphy Act, 1904) 584
	7 Edw. 7, c. cxxxvi. (National Trust Act, 1907) 155, 356, 358, 550 s. 21 155, 356, 550
	8 Edw. 7, c. 25—17 <i>Statutes</i> 600. (Naval Lands (Volunteers) Act, 1908) 245
	8 Edw. 7, c. 33—19 <i>Statutes</i> 293. (Telegraph (Construction) Act, 1908), s. 2 265
	8 Edw. 7, c. 36—1 <i>Statutes</i> 257. (Small Holdings and Allotments Act, 1908), s. 52 159

	PAGE		PAGE
9 Edw. 7, c. 47—9 <i>Statutes</i> 207. (Development and Road Improve- ment Funds Act, 1909), ss. 3, 4 . . .	358	s. 29	134
9 Edw. 7, c. 48—11 <i>Statutes</i> 152. (Asylums Officers' Superannuation Act, 1909)	441	s. 31	92
10 Edw. 7, c. 8—8 <i>Statutes</i> 156; 9 <i>Statutes</i> 968; 16 <i>Statutes</i> 747. (Finance (1909—1910) Act, 1910) . . .	295	s. 33	56
10 Edw. 7 & 1 Geo. 5, c. 13—12 <i>Statutes</i> 860. (Police (Weekly Rest Day) Act, 1910)	371, 375, 389, 401, 404, 408	s. 35	73
10 Edw. 7 & 1 Geo. 5, c. 24—9 <i>Statutes</i> 985. (Licensing (Consolidation) Act, 1910)	289, 292, 295, 306, 307, 599	s. 36	56
s. 10	309	s. 41	62, 90
s. 14	301, 302	s. 43	61, 67, 87, 91
s. 21	297, 302	Sched. I	51, 68, 101
ss. 24—26	301	Sched. IV	56
s. 27	301, 309	Sched. V	55
ss. 29—33	301	Sched. VII	87
s. 37	303	Sched. IX	89
s. 38	297, 303	8 & 9 Geo. 5, c. 27—12 <i>Statutes</i> 305. (Public Works Loans Act, 1918), s. 4 . . .	172
Sched. II.	302	8 & 9 Geo. 5, c. 40—9 <i>Statutes</i> 426. (Income Tax Act, 1918)—	
3 & 4 Geo. 5, c. 28—11 <i>Statutes</i> 160. (Mental Deficiency Act, 1913) . . .	26, 201, 440	Sched. I, Sched. A	165
s. 30	439, 441, 452	Sched. I, Sched. D	166
s. 71	439, 441	Miscellaneous Rules applicable to Sched. D—	
4 & 5 Geo. 5, c. 58—11 <i>Statutes</i> 373. (Criminal Justice Administration Act, 1914), s. 5	586	rule 6	165
4 & 5 Geo. 5, c. 61—12 <i>Statutes</i> 862. (Special Constables Act, 1914).	369, 399	Sched. I, Scheds. A, B, C, D, and E—	
4 & 5 Geo. 5, c. 91—6 <i>Statutes</i> 1161. (Welsh Church Act, 1914)	21, 22, 24	General rules 19, 21	164, 165, 166
s. 8	22, 23, 24	8 & 9 Geo. 5, c. 55—7 <i>Statutes</i> 303. (School Teachers (Superannuation) Act, 1918)	441, 444, 449, 450, 451
s. 13	23, 24	s. 5	448, 452
s. 24	23	s. 14	443
6 & 7 Geo. 5, c. 31—12 <i>Statutes</i> 865. (Police, Factories, etc. (Miscel- laneous Provisions) Act, 1916), s. 5 . . .	399	s. 18	439, 441
6 & 7 Geo. 5, c. 40—19 <i>Statutes</i> 307. (Telegraph (Construction) Act, 1916), s. 1	238, 265	9 & 10 Geo. 5, c. 20. (Scottish Board of Health Act, 1919), s. 5	313
6 & 7 Geo. 5, c. 63—2 <i>Statutes</i> 1169. (Defence of the Realm (Acquisition of Land) Act, 1916)	235	9 & 10 Geo. 5, c. 21—3 <i>Statutes</i> 418. (Ministry of Health Act, 1919), s. 4 . . .	313
s. 14	291	9 & 10 Geo. 5, c. 35. (Housing, Town Planning, etc., Act, 1919), s. 45	468
7 & 8 Geo. 5, c. 32—12 <i>Statutes</i> 304. (Public Works Loans Act, 1917), s. 4 . . .	172	9 & 10 Geo. 5, c. 46—12 <i>Statutes</i> 867. (Police Act, 1919)	367, 379, 392
7 & 8 Geo. 5, c. 64—7 <i>Statutes</i> 548. (Representation of the People Act, 1918)	32, 41, 44, 54, 59, 62, 67, 68, 75, 78, 81, 82, 83, 84, 85, 87, 88, 89, 90	s. 4	368, 370, 371, 378, 392, 400, 403
s. 1	36	9 & 10 Geo. 5, c. 57—2 <i>Statutes</i> 1176. (Acquisition of Land (Assessment of Compensation) Act, 1919)	156, 157, 166, 239, 248, 254, 259, 267, 277, 279, 291, 294, 488, 495, 499, 500, 505, 577, 618, 619
s. 3	32, 36, 66, 67	s. 1	500
s. 7	66, 67	s. 2	240, 473, 474
s. 8	81, 87	s. 5	269
s. 11	41, 44, 45, 47, 51, 52, 63, 68, 75, 76, 78, 84, 85, 88	s. 12	167
s. 12	131, 132	9 & 10 Geo. 5, c. 58—3 <i>Statutes</i> 443. (Forestry Act, 1919)	353, 354, 355, 356, 357, 358, 359, 360
s. 14	51, 101, 102	s. 1	355
s. 15	61, 63, 88, 91	s. 3	357
s. 21	56	s. 5	356
s. 22	87	s. 6	356, 358
s. 23	88, 93	s. 7	357
s. 28	132, 133	s. 8	359, 361
		s. 10	359, 360
		9 & 10 Geo. 5, c. 65—6 <i>Statutes</i> 1192. (Welsh Church (Temporalities) Act, 1919)	23
		9 & 10 Geo. 5, c. 94—11 <i>Statutes</i> 748. (Nurses Registration Act, 1919)	199
		9 & 10 Geo. 5, c. 95. (Nurses Registra- tion (Scotland) Act, 1919)	199
		9 & 10 Geo. 5, c. 100—7 <i>Statutes</i> 764. (Electricity (Supply) Act, 1919), s. 16	346

PAGE		PAGE	
10 & 11 Geo. 5, c. 17—10 <i>Statutes</i> 332.		15 Geo. 5, c. 16—13 <i>Statutes</i> 1079.	
(Increase of Rent and Mortgage Interest (Restrictions) Act, 1920) .	229, 474	(Town Planning Act, 1925) .	513, 514
10 & 11 Geo. 5, c. 28—8 <i>Statutes</i> 1285.		s. 4	468
(Gas Regulation Act, 1920), s. 7 .	193	s. 17	514
10 & 11 Geo. 5, c. 50—12 <i>Statutes</i> 176.		15 Geo. 5, c. 18—17 <i>Statutes</i> 833.	
(Mining Industry Act, 1920), s. 20 .	465	(Settled Land Act, 1925)—	
10 & 11 Geo. 5, c. 67—5 <i>Statutes</i> 580.		s. 48	357
(Government of Ireland Act, 1920) .	348	s. 117	357, 478
s. 6	227	15 Geo. 5, c. 19—20 <i>Statutes</i> 94.	
10 & 11 Geo. 5, c. 72—19 <i>Statutes</i> 87.		(Trustee Act, 1925), s. 1	607
(Roads Act, 1920), s. 3	288	15 Geo. 5, c. 20—15 <i>Statutes</i> 177.	
11 & 12 Geo. 5, c. 31—12 <i>Statutes</i> 873.		(Law of Property Act, 1925)—	
(Police Pensions Act, 1921) .	185, 365, 366, 367, 368, 369, 377, 378, 391, 392, 403, 406	s. 45	22, 23
s. 7	403, 406	s. 84	277
s. 10	366	s. 205	478
s. 12	403, 405	15 Geo. 5, c. 21—15 <i>Statutes</i> 434.	
s. 19	366	(Land Registration Act, 1925) .	249, 276, 292, 294
s. 27	369, 377, 392	s. 64	276
11 & 12 Geo. 5, c. 44—20 <i>Statutes</i> 289.		15 Geo. 5, c. 22—15 <i>Statutes</i> 524.	
(Water Undertakings (Modification of Charges) Act, 1921) .	571	(Land Charges Act, 1925) .	276, 512
s. 1	562	s. 10, Class D	542
11 & 12 Geo. 5, c. 51—7 <i>Statutes</i> 130.		s. 15	225, 512
(Education Act, 1921)—		15 & 16 Geo. 5, c. 47—13 <i>Statutes</i> 1095.	
s. 75	439, 440	(Fire Brigade Pensions Act, 1925) .	186
ss. 76, 77, 93	440	15 & 16 Geo. 5, c. 59—7 <i>Statutes</i> 317.	
12 & 13 Geo. 5, c. 11—10 <i>Statutes</i> 81.		(Teachers (Superannuation) Act, 1925) .	439, 440, 441, 442, 443, 444, 445, 447, 449, 450, 451, 453
(Juries Act, 1922) .	76, 84, 85, 87	s. 2	438, 439, 440, 441
s. 1	76, 85, 86	ss. 3, 5	452
s. 7	87	s. 6	447, 448, 452
12 & 13 Geo. 5, c. 42—7 <i>Statutes</i> 314.		s. 9	445, 446, 450, 452
(School Teachers (Superannuation) Act, 1922) .	445, 448, 450	s. 10	453
12 & 13 Geo. 5, c. 59—10 <i>Statutes</i> 863.		s. 12	446, 452, 453
(Local Government and Other Officers' Superannuation Act, 1922) .	60	s. 14	442, 443
13 & 14 Geo. 5, c. 11—12 <i>Statutes</i> 895.		s. 15	449
(Special Constables Act, 1923) .	369, 399	s. 17	445, 446, 450
13 & 14 Geo. 5, c. 16—8 <i>Statutes</i> 780.		15 & 16 Geo. 5, c. 65—19 <i>Statutes</i> 314.	
(Salmon and Freshwater Fisheries Act, 1923) .	569, 582	(Telegraph (Money) Act, 1925) .	264
13 & 14 Geo. 5, c. 20—14 <i>Statutes</i> 389.		15 & 16 Geo. 5, c. 84—11 <i>Statutes</i> 513.	
(Mines (Working Facilities and Support) Act, 1923), s. 15 .	154, 361, 485, 487	(Workmen's Compensation Act, 1925) .	377, 378, 389, 403, 406
13 & 14 Geo. 5, c. 21—3 <i>Statutes</i> 459.		s. 3	368
(Forestry (Transfer of Woods) Act, 1923) .	353, 355, 361	15 & 16 Geo. 5, c. 90—14 <i>Statutes</i> 617.	
s. 1	357	(Rating and Valuation Act, 1925)—	
s. 6	359, 360	s. 11	600
13 & 14 Geo. 5, c. 24—13 <i>Statutes</i> 989.		s. 18	417
(Small Dwellings Acquisition Act, 1923) [Part III (s. 22) of Housing, etc., Act, 1923] .	218, 222, 223, 226	s. 19	417, 418
13 & 14 Geo. 5, c. 41. (Town Councils (Scotland) Act, 1923) .	42, 43	s. 21	417
14 & 15 Geo. 5, c. 12—7 <i>Statutes</i> 316.		s. 27	418
(School Teachers (Superannuation) Act, 1924) .	450	s. 31	417
15 Geo. 5, c. 15. (Housing (Scotland) Act, 1925) .	217, 226	s. 37	416, 417, 418, 601
s. 45	217	s. 43	609
s. 72	159	16 & 17 Geo. 5, c. 9—7 <i>Statutes</i> 649.	
s. 73	172	(Representation of the People (Economy Provisions) Act, 1926) [Part III (ss. 9—11) of Economy (Miscellaneous Provisions) Act, 1926] .	78
s. 75	226	16 & 17 Geo. 5, c. 11—15 <i>Statutes</i> 546.	
		(Law of Property (Amendment) Act, 1926) .	225
		16 & 17 Geo. 5, c. 34—12 <i>Statutes</i> 897.	
		(Police Pensions Act, 1926) .	185, 368, 369, 377, 378, 391, 392, 403, 406
		16 & 17 Geo. 5, c. 38—10 <i>Statutes</i> 878.	
		(Local Government (County Boroughs and Adjustments) Act, 1926), s. 1	14

	PAGE		PAGE
16 & 17 Geo. 5, c. 47. (Rating (Scotland) Act, 1926), Sched. II . . .	348	22 & 23 Geo. 5, c. 48—25 <i>Statutes</i> 470.	
16 & 17 Geo. 5, c. 48—15 <i>Statutes</i> 768.		(Town and Country Planning Act, 1932)— <i>contd.</i>	
(Births and Deaths Registration Act, 1926), ss. 1—3 . . .	24	s. 10	460, 468, 474
16 & 17 Geo. 5, c. 54—19 <i>Statutes</i> 316.		s. 11	277
(Wireless Telegraphy (Blind Persons Facilities) Act, 1926) . . .	584	s. 50	467
17 Geo. 5, c. 6—3 <i>Statutes</i> 464.		s. 52	510
(Forestry Act, 1927) . . . 354, 355, 360, 361		Sched. I	292
17 & 18 Geo. 5, c. 33—11 <i>Statutes</i> 200.		Sched. II	277
(Mental Deficiency Act, 1927) . . .	440	Sched. III	292, 293
s. 7	441	22 & 23 Geo. 5, c. 49. (Town and Country Planning (Scotland) Act, 1932)	148
17 & 18 Geo. 5, c. 37—19 <i>Statutes</i> 100.		23 Geo. 5, c. 12—26 <i>Statutes</i> 168.	
(Road Transport Lighting Act, 1927)	420, 421	(Children and Young Persons Act, 1933)—	
s. 1	420	s. 79	450
s. 5	419, 420	ss. 90, 93	233
s. 10	420	s. 107	450
17 & 18 Geo. 5, c. 41—16 <i>Statutes</i> 993.		23 & 24 Geo. 5, c. 27—26 <i>Statutes</i> 133.	
(Superannuation and Other Trust Funds (Validation) Act, 1927) . . .	609	(Blind Voters Act, 1933)	83
18 & 19 Geo. 5, c. 12—7 <i>Statutes</i> 651.		23 & 24 Geo. 5, c. 51—26 <i>Statutes</i> 295.	
(Representation of the People (Equal Franchise) Act, 1928)—		(Local Government Act, 1933) . . .	10,
s. 1	36	15, 38, 39, 40, 44, 128,	
s. 2	32, 36	129, 130, 131, 162, 239,	
18 & 19 Geo. 5, c. 25—7 <i>Statutes</i> 652.		268, 342, 353, 531	
(Representation of the People (Reading University) Act, 1928) . . .	80	s. 8	32, 38
19 Geo. 5, c. 17—10 <i>Statutes</i> 883.		ss. 23, 25	40
(Local Government Act, 1929)—		s. 28	130
ss. 21, 22	458	s. 35	38, 39, 40, 129
s. 102	439, 441	ss. 37, 38	40
ss. 119, 124	458	s. 50	38
19 & 20 Geo. 5, c. 23—2 <i>Statutes</i> 775.		s. 57	40, 41
(Companies Act, 1929)	572	s. 58	41
19 & 20 Geo. 5, c. 25. (Local Government (Scotland) Act, 1929)—		s. 61	70, 71, 72
s. 7	348	s. 82	57, 58
s. 23	294	s. 99	68
20 Geo. 5, c. 17—12 <i>Statutes</i> 968.		s. 139	11, 14
(Poor Law Act, 1930)	411	ss. 140, 141	10, 11, 16
s. 53	439, 441	ss. 143, 146	11, 16
20 & 21 Geo. 5, c. 23—23 <i>Statutes</i> 154.		ss. 148, 149	11, 14
(Mental Treatment Act, 1930) . . .	26, 201	s. 150	11, 14, 352, 564
s. 19	201	ss. 151—154	11, 14
20 & 21 Geo. 5, c. 43—23 <i>Statutes</i> 607.		ss. 159, 160	268
(Road Traffic Act, 1930)	543	s. 161	239, 267, 268, 269, 353
s. 8	421	ss. 161 <i>et seq.</i>	269
ss. 67, 77	412, 415	s. 162	269
20 & 21 Geo. 5, c. 44—23 <i>Statutes</i> 529.		s. 179	268, 269
(Land Drainage Act, 1930)	287, 289, 470, 569, 581, 582	s. 215	163, 164, 170
s. 45	287	s. 238	40
s. 46	171	ss. 250—252	546
ss. 76, 81, 84	287	s. 275	11, 14
Sched. IV	287	ss. 284, 285	213
20 & 21 Geo. 5, c. 51—23 <i>Statutes</i> 755.		s. 290	14, 154, 157, 244, 292, 300, 434, 566
(Reservoirs (Safety Provisions) Act, 1930)	617, 618	s. 305	45, 352
ss. 2, 4	618	Sched. II	58, 70
22 Geo. 5, c. 4—24 <i>Statutes</i> 125.		Pt. I	71, 131, 141, 142, 143
(Statute of Westminster, 1931) . . .	36, 91	Pt. III	139, 140
s. 1	37	Sched. IV	342, 343, 344, 346, 347, 348, 351, 352
22 & 23 Geo. 5, c. 48—25 <i>Statutes</i> 470.		Sched. VI	269
(Town and Country Planning Act, 1932)	148, 293, 430, 461, 476, 511, 521	23 & 24 Geo. 5, c. 53—26 <i>Statutes</i> 870.	
ss. 2—4	305	(Road and Rail Traffic Act, 1933) . . .	543
		s. 7	413
		s. 8	414
		s. 16	413
		24 & 25 Geo. 5, c. 14—27 <i>Statutes</i> 27.	
		(Arbitration Act, 1934)	254, 292, 294

	PAGE		PAGE
24 & 25 Geo. 5, c. 15—27 <i>Statutes</i> 728. (Supply of Water in Bulk Act, 1934)	538, 613	26 Geo. 5 & 1 Edw. 8, c. 31—29 <i>Statutes</i> 1051. (Old Age Pensions Act, 1936)	312 ss. 10, 12, 13 320
24 & 25 Geo. 5, c. 26—27 <i>Statutes</i> 349. (Licensing (Permitted Hours) Act, 1934)	292	26 Geo. 5 & 1 Edw. 8, c. 32—29 <i>Statutes</i> 1064. (National Health Insurance Act, 1936)	312, 377, 378, 389, 403, 406 ss. 13 (3), 30, 35—43 314 s. 58 318 s. 64 314, 319 ss. 66, 67 315 s. 70 315, 319 ss. 75, 91—98 315 ss. 99, 100, 104, 105, 117, 118 316 ss. 120, 122, 140 317 s. 149 317, 319 ss. 150, 160 317 s. 163 317, 319 s. 164 317 s. 167 317, 319 ss. 170, 171, 175, 178, 180, 183, 184, 188, 190—192, 195, 198, 205 318 ss. 221, 224—226 319 Sched. I 449 Scheds. III, IV 319
24 & 25 Geo. 5, c. 28—27 <i>Statutes</i> 302. (Gas Undertakings Act, 1934)	193	26 Geo. 5 & 1 Edw. 8, c. 33—29 <i>Statutes</i> 1198. (Widows', Orphans' and Old Age Contributory Pensions Act, 1936)	312 ss. 23, 33, 34, 38, 42, 44 320
24 & 25 Geo. 5, c. 29—27 <i>Statutes</i> 756. (Unemployment Act, 1934)	321	26 Geo. 5 & 1 Edw. 8, c. 40—29 <i>Statutes</i> 264. (Midwives Act, 1936)	200 s. 1 200 s. 6 210
s. 35 321		26 Geo. 5 & 1 Edw. 8, c. 49—29 <i>Statutes</i> 309. (Public Health Act, 1936)	268, 341, 470, 513, 527, 528, 534, 555, 560, 570, 581, 582 534, 535, 538, 553, 569 s. 6 411 s. 58 411 s. 111 527, 528, 538, 552 ss. 116, 120, 121, 127 613 s. 130 601, 613 s. 132 544, 613 s. 133 603, 613 s. 135 604, 613 s. 136 613 s. 137 528, 553, 554 s. 138 554, 555, 613 s. 139 555, 613 ss. 142, 275, 279 613 ss. 280, 281 592, 613 s. 285 251 s. 322 540
ss. 36—38, 42 334		26 Geo. 5 & 1 Edw. 8, c. 51—29 <i>Statutes</i> 565. (Housing Act, 1936)	151, 173, 215, 216, 217, 218, 219, 220, 226, 232, 520 s. 1 217 ss. 9, 10, 15, 23, 25, 29, 42 232 s. 47 302 s. 79 216, 217 s. 91 222, 223 s. 92 172 s. 103 217 s. 123 159, 162 s. 143 217 s. 188 232 Sched. II. 232
ss. 50, 52 321			
ss. 54, 55 321, 335			
(Unemployment Assistance Act, 1934)			
[Part II (ss. 35—57 see above) of Unemployment Act, 1934]	332		
24 & 25 Geo. 5, c. 36—27 <i>Statutes</i> 442. (Petroleum (Production) Act, 1934)	461		
24 & 25 Geo. 5, c. 50—27 <i>Statutes</i> 534. (Road Traffic Act, 1934)—			
s. 1 422			
s. 19 419, 420			
25 Geo. 5, c. 1—27 <i>Statutes</i> 326. (Special Areas Development and Improvement Act, 1934)	146, 149		
ss. 1, 3, 4 149			
25 Geo. 5, c. 8—28 <i>Statutes</i> 499. (Unemployment Insurance Act, 1935)	332		
ss. 7, 25, 28, 32, 61, 63, 64, 66, 67 : 335			
ss. 76, 77 332, 335			
s. 78 332, 335, 336, 337			
s. 79 332, 335			
s. 80 335			
ss. 81, 82 333, 335, 336			
s. 87 335, 336			
s. 90 336			
s. 96 340			
ss. 100, 101 336			
s. 102 333, 336			
ss. 104, 105, 109, 112, 113 336			
Sched. I 449			
25 Geo. 5, c. 9—28 <i>Statutes</i> 61. (Herring Industry Act, 1935)	2		
ss. 2, 4 2			
25 & 26 Geo. 5, c. 24—28 <i>Statutes</i> 320. (Finance Act, 1935), s. 28	158, 160		
25 & 26 Geo. 5, c. 26—28 <i>Statutes</i> 29. (Defence (Barracks) Act, 1935)	288		
25 & 26 Geo. 5, c. 35—28 <i>Statutes</i> 49. (Teachers (Superannuation) Act, 1935)	450		
25 & 26 Geo. 5, c. 40—28 <i>Statutes</i> 257. (Housing Act, 1935), s. 92	222, 223, 226		
25 & 26 Geo. 5, c. 41. (Housing (Scotland) Act, 1935)	173, 293		
ss. 25, 28 173			
ss. 67, 83 226			
25 & 26 Geo. 5, c. 47—28 <i>Statutes</i> 79, 275. (Restriction of Ribbon Develop- ment Act, 1935)	523		
ss. 1, 2 259			
s. 13 268			
26 Geo. 5 & 1 Edw. 8, c. 20—29 <i>Statutes</i> 133. (Electricity Supply (Meters) Act, 1936)	585		

	PAGE
26 Geo. 5 & 1 Edw. 8, c. 52. (Private Legislation Procedure (Scotland) Act, 1936)	432, 433, 436
s. 2	436
ss. 5, 6, 9, 15	432
1 Edw. 8 & 1 Geo. 6, c. 5—29 <i>Statutes</i> 183. (Trunk Roads Act, 1936)	258
1 Edw. 8 & 1 Geo. 6, c. 31—30 <i>Statutes</i> 994. (Special Areas (Amendment) Act, 1937)	146, 149
1 Edw. 8 & 1 Geo. 6, c. 67—30 <i>Statutes</i> 201. (Factories Act, 1937)	565, 582
1 Edw. 8 & 1 Geo. 6, c. 68—30 <i>Statutes</i> 385. (Local Government Superannuation Act, 1937)	60, 440, 443, 444, 445, 446, 449, 450, 458, 459
s. 1	60
s. 2	453
s. 3	60, 445, 458, 459
s. 6	60
s. 8	59, 60
s. 10	443, 447
s. 17	449
s. 21	171
s. 27	458
s. 29	446, 447
s. 35	458
s. 40	60, 445
Sched. I	60, 443
1 Edw. 8 & 1 Geo. 6, c. 69. (Local Government Superannuation (Scotland) Act, 1937)	60
s. 17	171
1 & 2 Geo. 6, c. 3—30 <i>Statutes</i> 1018. (National Health Insurance (Juvenile Contributors and Young Persons) Act, 1937)—	
s. 3	319
ss. 8, 12	320
1 & 2 Geo. 6, c. 6—30 <i>Statutes</i> 1025. (Air-Raid Precautions Act, 1937)	3, 5, 267
s. 1	4
1 & 2 Geo. 6, c. 8—31 <i>Statutes</i> 897. (Unemployment Insurance Act, 1938)—	
s. 1	332, 336
s. 2	336
s. 8	337
1 & 2 Geo. 6, c. 13—31 <i>Statutes</i> 627. (Superannuation (Various Services) Act, 1938), Sched.	359
1 & 2 Geo. 6, c. 14—31 <i>Statutes</i> 815. (National Health Insurance (Amendment) Act, 1938), s. 1	320
1 & 2 Geo. 6, c. 19—31 <i>Statutes</i> 613. (Rating and Valuation (Postponement of Valuations) Act, 1938)	418
s. 1	417
1 & 2 Geo. 6, c. 38. (Housing (Agricultural Population) (Scotland) Act, 1938)	217
1 & 2 Geo. 6, c. 39—31 <i>Statutes</i> 113. (Welsh Church (Amendment) Act, 1938)	24
1 & 2 Geo. 6, c. 42—31 <i>Statutes</i> 243. (Herring Industry Act, 1938)	2
1 & 2 Geo. 6, c. 52—31 <i>Statutes</i> 471. (Coal Act, 1938), s. 17	274

	PAGE
1 & 2 Geo. 6, c. 36—31 <i>Statutes</i> 249. (Food and Drugs Act, 1938)—	
s. 24	190
s. 57	192, 193
s. 68	190
s. 70	192
s. 80	190, 191, 192
s. 83	192
s. 100	192, 193
1 & 2 Geo. 6, c. 72—31 <i>Statutes</i> 585. (Fire Brigades Act, 1938)	582
2 & 3 Geo. 6, c. 3. (Housing (Financial Provisions) (Scotland) Act, 1938), s. 2	226
2 & 3 Geo. 6, c. 13—32 <i>Statutes</i> 253. (Cancer Act, 1939)	30
s. 2	30
2 & 3 Geo. 6, c. 19—32 <i>Statutes</i> 79. (Wild Birds (Duck and Geese) Protection Act, 1939)	8, 10
2 & 3 Geo. 6, c. 20. (Reorganisation of Offices (Scotland) Act, 1939)	617
s. 1	312
2 & 3 Geo. 6, c. 21—32 <i>Statutes</i> 223. (Limitation Act, 1939), ss. 2, 18	1
2 & 3 Geo. 6, c. 22—32 <i>Statutes</i> 801. (Camps Act, 1939)	353
ss. 1, 2	353
2 & 3 Geo. 6, c. 29—32 <i>Statutes</i> 741. (Unemployment Insurance Act, 1939)—	
s. 1	337
s. 8	332, 337
s. 10	337
2 & 3 Geo. 6, c. 31—32 <i>Statutes</i> 813. (Civil Defence Act, 1939)	3, 4, 5, 197, 267
s. 1	4
s. 4	7, 8
s. 9	197
ss. 28, 56, 58, 66	6
2 & 3 Geo. 6, c. 38—32 <i>Statutes</i> 896. (Ministry of Supply Act, 1939)—	
s. 2	245
Sched.	245
2 & 3 Geo. 6, c. 40—32 <i>Statutes</i> 259. (London Government Act, 1939)	38, 40, 41, 44, 268
s. 9	348
s. 23	38
s. 31	40, 41
s. 32	41
s. 36	72
s. 56	57, 58
ss. 102, 114	268
s. 139	163, 170
s. 174	213
s. 206	45
Sched. II.	58
Pt. II	141
2 & 3 Geo. 6, c. 62—32 <i>Statutes</i> 930. (Emergency Powers (Defence) Act, 1939)	2, 25, 144, 162, 171, 190, 194, 225, 227, 257, 263, 266, 272, 289, 291, 296, 306, 355, 368, 461, 563
s. 1	236, 466, 474
2 & 3 Geo. 6, c. 71—32 <i>Statutes</i> 971. (Rent and Mortgage Interest Restrictions Act, 1939)	229, 474

	PAGE		PAGE
2 & 3 Geo. 6, c. 75—32 Statutes 1013. (Compensation (Defence) Act, 1939)	236, 238, 240, 265, 270, 271, 272, 280, 284, 288, 289	2 & 3 Geo. 6, c. lxxxvi. (National Trust Act, 1939)	358 s. 8 155, 356, 550
s. 1	272	3 & 4 Geo. 6, c. 3—33 Statutes 379. (National Loans Act, 1940)	161
s. 2	241, 249, 250, 254, 272, 281, 282, 285, 287	3 & 4 Geo. 6, c. 12—33 Statutes 361. (Rating and Valuation (Postpone- ment of Valuations) Act, 1940)	418 s. 1 417
s. 3	249, 250, 271, 282, 283, 284, 286	3 & 4 Geo. 6, c. 13—33 Statutes 511. (Old Age and Widows' Pensions Act, 1940)	312, 352 s. 3 337 s. 16 320, 321 s. 17 320, 321, 352 s. 19 320 s. 20 321 Sched. II. 321
ss. 8, 15	283	3 & 4 Geo. 6, c. 14—33 Statutes 3. (Agriculture (Miscellaneous War Provisions) Act, 1940)—	257, 291 s. 31 291
s. 17	284, 291	3 & 4 Geo. 6, c. 20—33 Statutes 541. (Emergency Powers (Defence) Act, 1940)	2, 25, 171, 194, 289, 355, 368, 563
2 & 3 Geo. 6, c. 77—32 Statutes 1031. (Ministers of the Crown (Emergency Appointments) Act, 1939)	245	3 & 4 Geo. 6, c. 23—33 Statutes 386. (National Loans (No. 2) Act, 1940)	161
2 & 3 Geo. 6, c. 81—32 Statutes 1041. (National Service (Armed Forces) Act, 1939)	376, 390	3 & 4 Geo. 6, c. 25—33 Statutes 351. (Post Office and Telegraph Act, 1940)	264
2 & 3 Geo. 6, c. 82—32 Statutes 1061. (Personal Injuries (Emergency Pro- visions) Act, 1939)	377, 378, 389, 403, 406 s. 3 8, 369 s. 8 7, 8	3 & 4 Geo. 6, c. 44—33 Statutes 529. (Unemployment Insurance Act, 1940)	332 s. 5 337
2 & 3 Geo. 6, c. 91—32 Statutes 1106. (National Registration Act, 1939)	26, 33, 45, 47, 51, 52, 62, 67, 75, 78, 88, 90, 91, 93, 115	3 & 4 Geo. 6, c. 45—33 Statutes 552. (Emergency Powers (Defence) (No. 2) Act, 1940)	194, 289, 355, 368, 563
s. 1	73	4 & 5 Geo. 6, c. 3—33 Statutes 105. (Local Elections and Register of Electors (Temporary Provisions) Act, 1940)	38
s. 8	68	4 & 5 Geo. 6, c. 11—34 Statutes 437. (Determination of Needs Act, 1941), s. 6	337
2 & 3 Geo. 6, c. 92—32 Statutes 1112. (Unemployment Insurance (Emer- gency Powers) Act, 1939)	340 s. 1 337	4 & 5 Geo. 6, c. 14—34 Statutes 207. (Public Works Loans Act, 1941)—	160 s. 1 159, 160, 162 s. 5 159, 160, 162
2 & 3 Geo. 6, c. 93—32 Statutes 1115. (Unemployment Assistance (Emer- gency Powers) Act, 1939), ss. 1, 2	337	4 & 5 Geo. 6, c. 15—34 Statutes 268. (National Service Act, 1941)	181
2 & 3 Geo. 6, c. 94—32 Statutes 1118. (Local Government Staffs (War Service) Act, 1939)	346, 347, 350, 352, 447 s. 1 352 s. 14 346, 348	4 & 5 Geo. 6, c. 18—34 Statutes 257. (National Loans Act, 1941)	161
2 & 3 Geo. 6, c. 95—32 Statutes 1131. (Teachers Superannuation (War Service) Act, 1939)	442, 446, 448, 450, 451 s. 1 442, 448 s. 2 453 s. 9 448 s. 11 448, 451	4 & 5 Geo. 6, c. 22—34 Statutes 223. (Fire Services (Emergency Pro- visions) Act, 1941)	179, 180, 181, 182, 184, 185, 186
2 & 3 Geo. 6, c. 103—32 Statutes 1149. (Police and Firemen (War Service) Act, 1939)	365 s. 1 185, 186, 367 ss. 2—6 185, 186	4 & 5 Geo. 6, c. 39—34 Statutes 179, 440. (National Health Insurance, Contributory Pensions and Work- men's Compensation Act, 1941)	312, 377, 378, 389, 403, 406 s. 4 316
2 & 3 Geo. 6, c. 115—32 Statutes 1230. (Local Elections and Register of Electors (Temporary Provisions) Act, 1939)	32, 38, 44, 45, 78, 85, 127, 128, 129, 130, 131 s. 1 38, 41, 130, 131 s. 2 85, 87 s. 3 38, 85 s. 5 129 s. 9 38	4 & 5 Geo. 6, c. 42—34 Statutes 192. (Pharmacy and Medicines Act, 1941), ss. 11, 18	191
2 & 3 Geo. 6, c. 117—32 Statutes 1235. (National Loans Act, 1939)	159, 160, 161, 219	4 & 5 Geo. 6, c. 49—34 Statutes 90. (Local Elections and Register of Electors (Temporary Provisions) Act, 1941)	38

	PAGE
4 & 5 Geo. 6, c. 50—34 <i>Statutes</i> 1. (Agriculture (Miscellaneous Pro- visions) Act, 1941)	280
s. 9	257, 277, 278, 280
Sched. IV	280
5 & 6 Geo. 6, c. 13—35 <i>Statutes</i> 105. (Landlord and Tenant (Requisi- tioned Land) Act, 1942)	272, 273
5 & 6 Geo. 6, c. 14—35 <i>Statutes</i> 168. (National Loans Act, 1942)	161
5 & 6 Geo. 6, c. 21—35 <i>Statutes</i> 174. (Finance Act, 1942)— s. 10	289, 295, 306
Sched. VI	302
5 & 6 Geo. 6, c. 23—35 <i>Statutes</i> 55. (Minister of Works Act, 1942)	245
5 & 6 Geo. 6, c. 33—35 <i>Statutes</i> 76. (Local Elections and Register of Electors (Temporary Provisions) Act, 1942)	38
6 & 7 Geo. 6, c. 3—35 <i>Statutes</i> 231. (National Service Act, 1942)	376, 390
6 & 7 Geo. 6, c. 5—36 <i>Statutes</i> 39. (Minister of Town and Country Plan- ning Act, 1943)	245
6 & 7 Geo. 6, c. 6—36 <i>Statutes</i> 184. (Workmen's Compensation Act, 1943)	377, 378, 389, 403, 406
6 & 7 Geo. 6, c. 13—36 <i>Statutes</i> 269. (National Loans Act, 1943)	161
6 & 7 Geo. 6, c. 16—36 <i>Statutes</i> 1. (Agriculture (Miscellaneous Pro- visions) Act, 1943)	280
Sched. II	280
6 & 7 Geo. 6, c. 17—36 <i>Statutes</i> 208. (Nurses Act, 1943)	199, 202, 209, 210, 211
s. 6	199, 200, 201, 209, 210, 211
s. 7	200, 203, 204, 206, 211
s. 8	200, 205, 212
s. 9	212, 213
s. 10	200, 212
s. 11	212
s. 12	200
s. 13	199, 205, 209, 210, 211
s. 18	200, 203, 204, 206, 210, 211
s. 20	210
6 & 7 Geo. 6, c. 21—36 <i>Statutes</i> 334. (War Damage Act, 1943)	239, 272, 279, 290, 461, 500, 502, 503, 506, 509
s. 2	280, 297, 306
s. 5	280, 500
s. 6	280
ss. 6 <i>et seq.</i>	291
s. 7	291
ss. 8, 10	280
s. 17	241, 254, 279, 280, 287, 290
s. 52	461
Sched. II	280
6 & 7 Geo. 6, c. 26—36 <i>Statutes</i> 307. (Telegraph Act, 1943)	238, 264, 265
6 & 7 Geo. 6, c. 29—36 <i>Statutes</i> 239. (Town and Country Planning (Interim Development) Act, 1943)	250, 289, 291, 295, 305, 430, 460, 461
s. 6	466, 474
s. 11	510

	PAGE
6 & 7 Geo. 6, c. 33. (Nurses (Scotland) Act, 1943)	198, 199, 210, 211
s. 6	202
s. 7	203
6 & 7 Geo. 6, c. 35—36 <i>Statutes</i> 44. (Superannuation Act, 1943) [Part I (ss. 1—5) of Foreign Service Act, 1943]	226
6 & 7 Geo. 6, c. 43. (Town and Country Planning (Interim Develop- ment) (Scotland) Act, 1943)	291
6 & 7 Geo. 6, c. 48—36 <i>Statutes</i> 90. (Parliament (Elections and Meeting) Act, 1943)— s. 1	47, 79
s. 2	36, 55, 67, 88
s. 3	67
s. 5	63, 66, 79, 81, 98
s. 6	79
s. 8	47, 50, 80, 97, 120
s. 9	53, 81, 99, 105
s. 10	56, 63
s. 11	36, 54, 67, 80, 98, 99
s. 12	34, 51, 59
s. 13	66, 67, 87
s. 14	60, 61, 63
s. 15	48, 49, 50, 66, 67
s. 16	67, 88
s. 17	67
s. 18	56
s. 19	85, 87
s. 20	62, 89, 94, 116, 139
s. 21	52, 67, 88
s. 22	37, 62, 73, 80, 90, 91
s. 23	61
Sched. I	57, 83
Sched. II.	48, 49, 57, 93, 99
Sched. III	52, 118
Parliamentary Electors (War-Time Registration) Act, 1943) [Part I (ss. 1—25 see above) of Parliament (Elections and Meeting) Act, 1943]	33, 34, 36, 45, 46, 47, 50, 52, 58, 59, 60, 61, 62, 63, 66, 67, 68, 73, 74, 75, 77, 78, 79, 81, 82, 85, 88, 89, 90, 93, 96, 97, 99, 100, 106, 110, 115, 116, 118
7 & 8 Geo. 6, c. 2—36 <i>Statutes</i> 117. (Local Elections and Register of Electors (Temporary Provisions) Act, 1943)	38, 85
7 & 8 Geo. 6, c. 5—37 <i>Statutes</i> 338. (Landlord and Tenant (Requisi- tioned Land) Act, 1944)	272, 273
7 & 8 Geo. 6, c. 15—37 <i>Statutes</i> 362. (Reinstatement in Civil Employ- ment Act, 1944)	343, 345, 351
7 & 8 Geo. 6, c. 19—37 <i>Statutes</i> 520. (National Loans Act, 1944)	161
7 & 8 Geo. 6, c. 21—37 <i>Statutes</i> 524. (Pensions (Increase) Act, 1944, s. 3.	454, 456, 457
7 & 8 Geo. 6, c. 24—37 <i>Statutes</i> 238. (Parliamentary Electors (War- Time Registration) Act, 1944)	36, 62, 78, 79, 90, 96, 115
s. 1	47, 66, 67, 75, 79, 98, 117

	PAGE
7 & 8 Geo. 6, c. 26—37 <i>Statutes</i> 577. (Rural Water Supplies and Sewerage Act, 1944)—	
s. 3	527, 552
s. 4	540
s. 5	559
7 & 8 Geo. 6, c. 28—37 <i>Statutes</i> 1. (Agriculture (Miscellaneous Pro- visions) Act, 1944)	347
s. 1	347
7 & 8 Geo. 6, c. 31—37 <i>Statutes</i> 123. (Education Act, 1944)	344, 438, 439, 440, 445, 446, 450, 452
s. 9	440
s. 15	345
s. 42	450
s. 44	440
s. 47	439, 440
s. 114	441
s. 121	440
Sched. VIII	337
Sched. IX	440
7 & 8 Geo. 6, c. 32—37 <i>Statutes</i> 294. (Herring Industry Act, 1944)	2
7 & 8 Geo. 6, c. 36—37 <i>Statutes</i> 413. (Housing (Temporary Accommoda- tion) Act, 1944)	215, 216, 217, 218, 219, 220, 222, 226
s. 1	216, 217, 222
s. 2	216
s. 6	215
s. 8	222
7 & 8 Geo. 6, c. 39. (Housing (Scot- land) Act, 1944)	226
7 & 8 Geo. 6, c. 40—37 <i>Statutes</i> 12. (Liabilities (War-Time Adjustment) Act, 1944)—	
s. 1	144
s. 2	144, 145
7 & 8 Geo. 6, c. 41—37 <i>Statutes</i> 389. (House of Commons (Redistribution of Seats) Act, 1944)—	
s. 1	58
s. 3	34, 58, 59
Sched. III	59
7 & 8 Geo. 6, c. 42—37 <i>Statutes</i> 583. (Unemployment Insurance (Increase of Benefits) Act, 1944)	332
7 & 8 Geo. 6, c. 46—37 <i>Statutes</i> 80. (Ministry of National Insurance Act, 1944), s. 6	311, 332
7 & 8 Geo. 6, c. 47—37 <i>Statutes</i> 420. (Town and Country Planning Act, 1944)	248, 277, 279, 280, 281, 424, 430, 431, 460, 475, 485, 486, 488, 489, 490, 495, 500, 508, 509, 510, 512, 513, 516, 517, 521, 522, 577, 618
s. 1	305, 481, 482, 483, 484, 512, 519, 520, 521, 522, 523, 524, 525
s. 2	485, 487, 519, 520, 522, 525
ss. 3, 9, 10	485, 487
s. 12	525
s. 13	435, 484, 491, 492, 493, 494, 495, 496
s. 14	290, 435, 498, 499
s. 15	302
s. 16	435

	PAGE
7 & 8 Geo. 6, c. 47—37 <i>Statutes</i> 420. (Town and Country Planning Act, 1944)— <i>contd.</i>	
s. 17	512, 513
s. 19	475
ss. 25—27	435
s. 32	475
ss. 35, 36	430, 435
s. 42	155, 157
s. 43	485, 487
s. 52	478
s. 54	251, 482
s. 57	500
s. 58	167, 168, 471, 472, 474, 477
s. 59	167, 168
s. 60	471
s. 63	481
Sched. II	481, 482, 485, 486, 487, 488, 489
Sched. III	492, 493, 494, 495, 496
Sched. V	520
Sched. VI	167, 290, 291, 482, 487, 488, 489, 494, 495, 496, 500, 503
Sched. VIII	499, 500, 502, 503, 504, 505, 506
8 & 9 Geo. 6, c. 3—37 <i>Statutes</i> 242. (Local Elections and Register of Electors (Temporary Provisions) Act, 1944)	32, 38
8 & 9 Geo. 6, c. 5—38 <i>Statutes</i> 67. (Representation of the People Act, 1945)	31—70, 75, 77, 78, 81, 82, 84, 87, 88, 89, 90, 91, 93, 96, 97, 99, 100, 101, 106, 115, 136, 137, 139
s. 1	32, 33, 47, 66, 108, 109, 117, 127
s. 2	32, 45, 47
s. 3	33, 54, 64, 73, 80, 91, 96, 98, 99, 109, 110, 116
s. 4	32, 44, 45, 130, 131
s. 5	44, 127, 128, 129, 131
s. 6	33, 41
s. 7	33
ss. 9, 10	44
s. 11	33
s. 12	127
s. 13	33, 47, 74
s. 14	33, 45, 49, 50, 51, 52, 63, 97
s. 15	32, 33, 35, 45, 51, 52, 75, 78, 88
s. 18	33, 49, 50, 98, 101, 103, 105
s. 19	33, 99, 103, 105, 107, 119
s. 20	33, 81, 82, 109
s. 21	33, 76, 85, 86
s. 23	41, 44, 78, 88
s. 25	33, 81, 104
ss. 26—30	33, 81
s. 31	33, 81, 120
s. 32	33, 76, 81, 84
s. 33	34, 143
s. 35	63
s. 37	94, 116, 139
s. 38	36, 37, 41, 44, 45, 47, 49, 50, 51, 52, 53, 55, 56, 57, 58, 59, 60, 61, 62, 64, 67, 68
s. 39	34

	PAGE		PAGE
8 & 9 Geo. 6, c. 5—38 <i>Statutes</i> 67.		8 & 9 Geo. 6, c. 26—38 <i>Statutes</i> 580.	
(Representation of the People Act,		(Camps Act, 1945)	353
1945)— <i>contd.</i>		8 & 9 Geo. 6, c. 27—38 <i>Statutes</i> 4.	
Sched. I	36, 97, 114	(Welsh Church (Burial Grounds)	
Sched. II	47	Act, 1945)	21—24
Sched. III	52, 88	s. 1	23, 24
Sched. IV	52, 63, 88, 110	s. 2	24
Sched. V	32, 38, 64	s. 5	23
8 & 9 Geo. 6, c. 6—38 <i>Statutes</i> 338.		8 & 9 Geo. 6, c. 31—38 <i>Statutes</i> 581.	
(Nurses Act, 1945)	198—199, 202,	(Emergency Powers Defence Act,	
209, 211		1945)	144, 190, 225, 227
ss. 1, 2	199	8 & 9 Geo. 6, c. 33. (Town and	
8 & 9 Geo. 6, c. 8—38 <i>Statutes</i> 449.		Country Planning (Scotland) Act,	
(Road Transport Lighting (Cycles)		1945)	431
Act, 1945)	419—421	s. 2	436
s. 1	420, 421	ss. 13, 14	435
s. 3	420	s. 15	436
8 & 9 Geo. 6, c. 10—38 <i>Statutes</i> 299.		s. 24	435, 436
(Compensation of Displaced Officers		ss. 25, 26, 34, 35	435
(War Service) Act, 1945)	341—351	ss. 50, 50A	436
s. 1	342, 344	Scheds. I, II	436
s. 2	342, 345, 348	Sched. III	437
s. 3	342, 345, 347	8 & 9 Geo. 6, c. 35—38 <i>Statutes</i> 16.	
s. 4	347	(Forestry Act, 1945)	353—363
s. 5	342, 343, 347	s. 1	354, 355, 358, 359
s. 6	342, 343, 348	ss. 2, 3	354
s. 8	343, 344, 345, 346	s. 4	354, 360, 361, 362
Sched.	342, 343, 344, 345, 346, 348	s. 5	354, 360
8 & 9 Geo. 6, c. 11—38 <i>Statutes</i> 362.		s. 6	354, 357, 359, 360
(Police (His Majesty's Inspectors of		ss. 7, 8	354
Constabulary) Act, 1945)	364—365	s. 10	355, 358
8 & 9 Geo. 6, c. 14—38 <i>Statutes</i> 53.		Sched. I	354, 356, 360
(Teachers (Superannuation) Act,		Sched. II	354, 357, 360, 361
1945)	438—453	8 & 9 Geo. 6, c. 36—38 <i>Statutes</i> 479.	
s. 1	438	(Distribution of Industry Act,	
s. 2	452	1945)	145—157
s. 3	443, 445, 446, 447	s. 1	145, 148
ss. 4—6	443	s. 2	145
ss. 9, 11	451	s. 3	145, 151
s. 13	441	s. 4	145
s. 14	450	s. 5	145, 148
Sched. I	445	s. 6	145
Sched. II	448, 449	s. 7	146, 152, 153
8 & 9 Geo. 6, c. 15—38 <i>Statutes</i> 279.		s. 8	146, 149, 151
(Licensing Planning (Temporary		s. 9	146, 150
Provisions) Act, 1945)	296—306, 307,	ss. 10, 11	146
310		s. 12	145, 146
s. 1	296, 298, 304, 305	ss. 13, 14	146
s. 2	296, 304, 305	s. 15	146, 147
ss. 3, 4	296	s. 16	146
s. 5	296, 300, 307, 308, 310	Sched. I	146, 147, 148, 149
s. 6	296, 303	Sched. II	146, 151, 152, 155
s. 7	297, 310	8 & 9 Geo. 6, c. 38—38 <i>Statutes</i> 314.	
s. 8	297	(Local Government (Boundary	
s. 9	297, 311	Commission) Act, 1945)	10—16,
s. 10	297, 298, 309	17, 424, 431	
s. 11	297, 300, 306	s. 1	11, 15, 16
ss. 12—14	297	s. 2	17
s. 15	296, 297	s. 3	11, 16, 17, 18, 437
s. 16	297	s. 4	11
8 & 9 Geo. 6, c. 18—38 <i>Statutes</i> 308.		s. 8	16
(Local Authorities Loans Act,		Sched. I	11, 12
1945)	158—164, 169, 173, 174	Sched. II	15
s. 1	158, 160, 161, 162, 163,	8 & 9 Geo. 6, c. 39—38 <i>Statutes</i> 367.	
169, 170, 176		(Housing (Temporary Accommoda-	
s. 2	159, 168	tion) Act, 1945)	215—217
ss. 3—7	159	8 & 9 Geo. 6, c. 42—38 <i>Statutes</i> 491.	
s. 8	159, 170	(Water Act, 1945)	424, 430, 431,
s. 10	160, 161, 162, 163, 173	526—614	
s. 12	158, 168	s. 1	527

	PAGE
8 & 9 Geo. 6, c. 42—38 <i>Statutes</i> 491. (Water Act, 1945)— <i>contd.</i>	
s. 2	527, 530
s. 3	527
s. 4	527, 531, 533
ss. 5, 6	527
s. 7	527, 566
s. 9	437, 527, 555, 569, 572
s. 10	437, 527, 555, 572
s. 11	527
s. 12	430, 437, 527, 555, 575, 613
s. 13	527, 540
s. 14	437, 527, 574
ss. 15, 16	527
s. 17	527, 546, 547
s. 18	527, 546, 547, 575, 576
s. 19	527, 544
s. 20	527, 545
ss. 21, 22	527
s. 23	527, 555, 572
s. 24	437, 527, 528, 618, 619, 620
s. 25	527
s. 26	430, 437, 527, 575
s. 27	527
ss. 28—31	528
s. 32	437, 528, 571
s. 33	437, 528
ss. 35, 37	528
s. 38	528, 552
s. 40	528, 555, 556
ss. 41, 42, 44, 47—49	528
s. 51	528, 618
ss. 54—56	528
Sched. I	437, 528, 538
Pt. I	535, 536, 548, 551, 555, 556
Pt. II	535, 536, 538, 540, 555
Pt. III	537, 538, 551
Pt. IV	544, 545
Pt. V	562
Sched. II	437, 528, 549, 570, 585, 618, 619, 620
Sched. III	528, 531, 555, 567, 569, 570, 613
Pt. II, 7	618
Pt. III	550, 551
Pt. IV	577, 618
12, 13	588
14	587
Pt. V	538
19	590
21	589, 613
Pt. VI	538, 613
22	589, 591
Pt. VII, 29	593, 613
30	613
31	593, 595
Pt. IX, 39	593, 595
Pt. X	593, 613
Pt. XI	613
Pt. XII, 53	613
54	601
55	613
Pt. XIII	610, 613
Pt. XIV	613
Pt. XVI, 79, 80	613
Sched. IV	528, 555
Sched. V	527, 528, 538, 571

	PAGE
8 & 9 Geo. 6, c. 43—38 <i>Statutes</i> 582. (Requisitioned Land and War Works Act, 1945)	235—295
s. 1	243, 261
s. 2	244, 247, 251, 259, 261, 262, 275, 286, 292, 293, 294
s. 3	261
s. 4	244, 246, 248, 250, 251, 257, 270, 271, 273, 277, 288
ss. 4 <i>et seq.</i>	273
s. 5	245, 246, 248, 250, 253, 255, 256, 257, 258, 259, 271, 290, 291
s. 6	245, 250, 256, 258, 259, 271
s. 7	250, 252, 253, 257, 258, 290, 201, 292
s. 8	243, 258, 259, 261, 275, 287, 292
s. 9	243, 256, 259, 262, 278
s. 10	243, 247, 258, 280, 286, 287, 292, 294
s. 11	238, 243, 247, 251, 253, 256, 286, 291
s. 12	251, 256, 262, 286
s. 13	291
s. 14	254, 263, 272, 286
s. 15	238, 260, 261, 262, 263, 292
s. 16	238, 259, 261
s. 17	243, 251, 259, 260, 262, 263, 267
s. 18	238, 243, 259, 260
s. 19	238, 259, 260
s. 20	260
s. 21	260, 263
s. 22	265
s. 23	238, 245
ss. 24, 25	239
s. 26	239, 241
s. 27	239, 241, 292
s. 28	239
ss. 28 <i>et seq.</i>	245
s. 29	239, 254, 271, 272, 282
s. 30	239, 282
s. 31	239, 271
s. 32	240, 245, 257, 273
s. 33	240, 275, 277, 290
s. 34	240, 275, 285, 290
s. 35	240, 290
s. 36	240, 275, 291, 293, 294, 295
s. 37	240, 275, 290, 294
s. 38	240, 275
s. 39	275
s. 40	286, 290
s. 41	240, 248, 254
s. 42	240
s. 45	288
s. 47	283
s. 50	291
s. 51	240, 247, 248, 270, 272
s. 52	240, 247, 254, 288
s. 53	241, 257, 274, 290
s. 54	241, 254, 280
s. 55	241
s. 58	245, 257, 270, 272, 287

	PAGE		PAGE
8 & 9 Geo. 6, c. 43—38 <i>Statutes</i> 582. (Requisitioned Land and War Works Act, 1945)— <i>contd.</i>		9 & 10 Geo. 6, c. 18—38 <i>Statutes</i> 439. (Statutory Orders (Special Pro- cedure) Act, 1945)— <i>contd.</i>	
s. 59	244, 245, 246, 247, 248, 250, 251, 253, 256, 257, 259, 260, 261, 263, 264, 265, 266, 267, 270, 271, 272, 274, 275, 279, 280, 285, 286, 287, 288, 294 240, 246, 273	Sched. II.	11, 14, 424, 430, 431, 535, 536, 538, 542, 550, 551, 556, 571, 573, 578
Sched.	240, 246, 273	9 & 10 Geo. 6, c. 20—38 <i>Statutes</i> 369. (Building Materials and Housing Act, 1945)	217—227
9 Geo. 6, c. 1—38 <i>Statutes</i> 101. (Local Elections (Service Abroad) Act, 1945)	70—74	s. 1	218, 220, 221, 225, 226, 227
s. 1	70, 73, 74, 142, 143	s. 2	218, 220
ss. 2, 3	70, 71, 74	s. 3	218, 221, 226, 227
s. 4	71, 72	s. 4	218, 221, 222
s. 6	70	ss. 5, 6	218, 226, 227
9 Geo. 6, c. 10—38 <i>Statutes</i> 629. (Supplies and Services (Transi- tional Powers) Act, 1945)—		s. 7	218, 224, 225, 227
s. 1	260, 291	s. 8	218, 227
s. 5	257, 260, 291	s. 9	220, 221, 224, 225, 227
s. 8	257	9 & 10 Geo. 6, c. 21—38 <i>Statutes</i> 104. (Elections and Jurors Act, 1945)	33, 45, 58, 74—94
9 Geo. 6, c. 12—38 <i>Statutes</i> 66. (Civil Defence (Suspension of Powers) Act, 1945)	3—6	s. 1	33, 47, 48, 51, 74, 75, 79
s. 1	3	s. 2	74, 75, 78, 84
s. 2	3, 6	s. 3	74, 75, 82
s. 3	3	s. 4	74, 75, 80, 81
Sched.	3, 6	s. 5	74, 75, 80, 82
9 & 10 Geo. 6, c. 13—38 <i>Statutes</i> 153, 229, 410. (Finance (No. 2) Act, 1945)	164—167	s. 6	74, 75, 76, 77, 83, 89
s. 21	164, 166	s. 7	74, 76, 77
s. 57	164, 168	s. 8	33, 74, 76
9 & 10 Geo. 6, c. 17—38 <i>Statutes</i> 363. (Police (Overseas Service) Act, 1945)	365—367	s. 9	74, 76, 85
s. 1	365, 367	s. 10	74, 76, 85, 86, 87
s. 2	365	ss. 11, 12	74, 76
s. 3	366, 367	ss. 14, 15	77
9 & 10 Geo. 6, c. 18—38 <i>Statutes</i> 439. (Statutory Orders (Special Pro- cedure) Act, 1945)	423—437, 571, 574, 575	s. 16	52, 67, 77, 93
s. 1	424	s. 17	77, 91
s. 2	424, 430, 431	ss. 18, 19	77
s. 3	424, 428	s. 20	83, 84, 91, 92
s. 4	427, 433	s. 21	78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 93
s. 5	425	Sched. I	47, 48, 51, 78, 88
s. 6	425, 431, 433, 435, 436, 578	Sched. II.	83
s. 7	433	Sched. III	67, 77, 78
s. 8	11, 424, 426, 535, 536, 538, 542, 550, 551, 556, 571, 578	Sched. IV	92
s. 9	427, 428	Sched. VII	87
s. 10	436		
s. 11	426, 427, 428, 429, 430, 431		
Sched. I	424, 426		

NORTHERN IRELAND

Finance Act (Northern Ireland), 1936, s. 3	295
Unemployment Insurance Act (Northern Ireland), 1936 (26 Geo. 5 & 1 Edw. 8, N.I., c. 30), ss. 98, 115, 116	336
Arbitration Act (Northern Ireland), 1937	294
Unemployment Insurance Act (Northern Ireland), 1939 (2 & 3 Geo. 6, N.I., c. 28), s. 12	337
Finance Act (Northern Ireland), 1942, s. 2	295
Planning (Interim Development) Act, (Northern Ireland), 1944	295

ACTIONS BY AND AGAINST LOCAL AUTHORITIES

CASES :—

PAGE

Poole Corpn. v. Moody, [1945] 1 All E. R. 536, C. A. - - - - - 1

CASES

Local government—Street—Private street works—Apportionment of expense—Charge on premises—Action to enforce—“Sum recoverable by virtue of any enactment”—Claim for “equitable relief”—Limitation—Private Street Works Act, 1892 (c. 57), s. 13 (1)—Limitation Act, 1939 (c. 21), s. 2 (1) (d), (7); s. 18 (1), (5).

On November 17, 1944, the plaintiffs, an urban sanitary authority, brought an action against the defendant, in which they asked for a declaration that they were entitled under s. 13 (1), of the Private Street Works Act, 1892, to a charge on premises owned by him, in respect of expenses incurred by them for private street works which they had executed under s. 6 of the Act. They also claimed interest from the date of the final apportionment on the defendant. The work was completed on March 18, 1933, and the final apportionment was made on June 27, 1933. The defendant pleaded in his defence that the plaintiffs' claim was barred by the Limitation Act, 1939. It was contended on his behalf that the action was one to recover a sum of money recoverable by virtue of an enactment within the meaning of s. 2 (1) (d), of the Act, and that by the terms of the subsection such an action could not be brought after the expiration of six years from the date on which the cause of action accrued, namely, March 18, 1933 :—

Held : that assuming that the action was one to recover a sum of money by virtue of an enactment, it was none the less a claim for equitable relief within the meaning of the Limitation Act, 1939, s. 2 (7), and that, consequently, the provisions of s. 2 in regard to the limitation of proceedings did not apply to it ; that the claim was one to recover a “principal sum of money secured by a mortgage or other charge on property,” within the meaning of s. 18 (1), of the Act, and the period of limitation applicable was, therefore, twelve years from the date when the right to receive the money accrued, with the result that the plaintiffs' action was not barred :—

Held : further, that by s. 18 (5), of the Act, the interest recoverable was limited to that which became due within six years from the date of the bringing of the action.—*POOLE CORPN. v. MOODY*, [1945] K. B. 350 ; 114 L. J. (K. B.) 305 ; 172 L. T. 355 ; 109 J. P. 133 ; 61 T. L. R. 326 ; 43 L. G. R. 91 ; *sub nom.* *MOODY v. POOLE CORPN.*, [1945] 1 All E. R. 536, C. A. [1]

AGRICULTURE

PAGE

ORDERS, CIRCULARS AND MEMORANDA :—

Order amending Defence (Agriculture and Fisheries) Regulations, 1939 - - - 2

L.G.L. XXIII.—1

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING THE DEFENCE (AGRICULTURE AND FISHERIES) REGULATIONS, 1939

S. R. & O., 1945, No. 74

January 24, 1945

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and hereby orders, as follows :—

1.—(1) In Regulation nineteen of the Defence (Agriculture and Fisheries) Regulations, 1939 (which suspends certain provisions of the Herring Industry Acts, 1935 and 1938, and of the Herring Industry Scheme, 1935), for the words “ the provisions of the Herring Industry Acts, 1935 and 1938, and of the Herring Industry Scheme, 1935, made under section two of the Herring Industry Act, 1935, set out in the Fifth Schedule hereto ” there shall be substituted the words “ the provisions of section four of the Herring Industry Act, 1935, and paragraphs 12 to 17, 22 and 23 of the Herring Industry Scheme, 1935, made under that Act ”.

(2) The Fifth Schedule to the said Regulations (which sets out the provisions of the Herring Industry Acts, 1935 and 1938, and of the Herring Industry Scheme, 1935, hitherto suspended by the said Regulation nineteen) is hereby revoked. [2]

2. After the said Regulation nineteen the following Regulation shall be inserted :—

“ 20. So long as this Part of these Regulations remains in force, the Herring Industry Board shall not exercise their functions under the Herring Industry Acts, 1935 to 1944, and the Herring Industry Scheme, 1935, except with the consent of the Secretary of State for Scotland, the Secretary of State concerned with the sea-fishing industry in Northern Ireland, the Minister of Agriculture and Fisheries and the Minister of Food :

Provided that this Regulation shall not apply to the functions of the Board under subsection (7) of section two of the Herring Industry Act, 1935, paragraph 4 of the Herring Industry Scheme, 1935, and paragraph 8 of that Scheme so far as it relates to the promotion of research and experiment.” [3]

3. The existing Regulation twenty of the said Regulations (which suspends the Herring Industry Advisory Council), and Regulation twenty-two of the said Regulations (which reduces the number of members of the Board required to attest the application of the seal of the Board from two to one) are hereby revoked. [4]

* * * * *

Note as to S. R. & O., 1945, No. 74.—At present Regulation nineteen of and the Fifth Schedule to the Defence (Agriculture and Fisheries) Regulations, 1939, suspend all the substantive functions of the Herring Industry Board except that of making loans for the construction of boats. Article 1 of the Order revives these functions except those conferred by paragraphs 12 to 17 of the Herring Industry Scheme, 1935 (which provide for licensing the use of boats, first sales, processing and export), and paragraphs 22 and 23 (which provide for the payment of licence fees and of a levy in respect of the sale or other disposal of herring). Article 2 of the Order makes the exercise of the Board's functions subject to the consent of the Ministers exercising control in relation to the herring industry under the Defence (General) Regulations, 1939. Certain functions of the Board, however, are not to be subject to such consent, namely, their power to amend the Herring Industry Scheme under s. 2 (7) of the Herring Industry Act, 1935, their functions under paragraph 4 of the Scheme (which enables them to make loans for the construction, reconditioning and equipment of boats and

the provision of nets and gear for boats, and to purchase and dispose of redundant boats) and their functions under paragraph 8 of the Scheme so far as they relate to the promotion of research and experiment. The effect of Article 3 of the Order is to revive the functions of the Herring Industry Advisory Council, previously suspended by Regulation 20 of the Defence (Agriculture and Fisheries) Regulations, 1939, and to restore a requirement that the application of the seal of the Board must be attested by two members.

AIR-RAID PRECAUTIONS

See, also, FIRE PROTECTION, HIGHWAYS, POLICE

STATUTES :—	PAGE		PAGE
Civil Defence (Suspension of Powers) Act, 1945	3	Civil Defence (Employment and Offences) (No. 2) Order, 1945	7
ORDERS, CIRCULARS AND MEMORANDA :—		CASES :—	
Civil Defence (Employment and Offences) Order, 1945	6	Baker v. Bethnal Green Corpn., [1945] 1 All E. R. 135	7

STATUTES

THE CIVIL DEFENCE (SUSPENSION OF POWERS) ACT, 1945

(9 Geo. 6, c. 12)

PRELIMINARY NOTE

The Air-Raid Precautions Act, 1937, and the Civil Defence Act, 1939, known as the Civil Defence Acts, 1937 and 1939, which contain the statutory provisions for the protection of life and property from the consequences of enemy air attack, were both passed in contemplation of a war that was to come, and, naturally, did not make provision for the automatic termination, at the conclusion of hostilities, of the obligations which they imposed upon the community in general. Consequently, these obligations, for instance, to prepare air-raid precaution schemes, to provide public and private shelters, to train employees in air-raid precautions, still remain, and are, technically, enforceable. However, the technique of civil defence as practiced during the war must now, to a large extent, be considered out of date, especially in the light of increased methods of destruction, and it would, therefore, be unprofitable to continue to apply the Acts without regard to changed circumstances.

This Act provides for the suspension of certain provisions of the Civil Defence Acts, 1937 and 1939, but not for repeal of the Acts, since it is the view of the Government that the risk of air attack on this country has not yet passed and that it is therefore their duty to make adequate arrangements to meet such eventualities. They have accordingly directed that a careful study be made of the most recent forms of air attack, and that the present civil defence organisation should be reviewed to see what adaptations or modifications are required to meet changed circumstances.

S. 1 provides for the suspension of the obligation imposed on certain local authorities to prepare and submit air-raid precaution schemes, and for the termination of the suspension by Order in Council. An Order under this section may apply either to all local authorities or to such as may be specified by the Order and either to all matters to which the schemes relate or to such of those matters as may be so specified (sub-s. (1)).

S. 2 provides for the suspension of provisions of the Civil Defence Act, 1939, to the extent specified in the Schedule to the present Act, and, as in s. 1, for their revival by Order in Council. An Order under this section may be made either generally or in relation to any area, and either in relation to all the provisions of the 1939 Act which are suspended by this Act, or in relation to any such provisions, and may make such adaptation of any such provision as to the time within which anything is authorised or required to be done as appears necessary or expedient in consequence of the operation of the provision having been suspended (sub-s. (2)). S. 3 provides that Orders in Council made under the Act are to be laid before Parliament. [5]

An Act to suspend certain provisions of the Civil Defence Acts, 1937 and 1939.
[10th December 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Suspension of obligation to prepare air-raid precaution schemes.—

(1) Notwithstanding anything in section one of the Air-Raid Precautions Act, 1937, no such air-raid precaution scheme as is mentioned in that section shall be prepared or submitted by a local authority until His Majesty by Order in Council directs that this subsection shall cease to have effect. [6]

(2) An Order under this section may apply either to all local authorities or to such local authorities as may be specified by the Order, and either to all matters to which such schemes as aforesaid relate or to such of those matters as may be so specified ; and if when such an Order comes into operation any direction given under paragraph (b) of the proviso to subsection (2) of the said section one (which provides for substituting borough or urban district councils for county councils) has not been revoked, the Order may revoke the direction. [7]

(3) Any such scheme as aforesaid in force immediately before the passing of this Act shall cease to have effect. [8]

(4) In this section the expression "the Minister" means the Minister specified in the Order for the time being in force under subsection (1) of section one of the Civil Defence Act, 1939, or, if no such Order is in force, the Secretary of State. [9]

*Sub-s. (1).—*S. 1 of the Air-Raid Precautions Act, 1937, obliges local authorities to prepare and submit to the Secretary of State schemes, known as air-raid precaution schemes, making provision as to arrangements to be made in their several areas for the protection of persons and property from injury or damage in the event of hostile air attack and as to the authorities and persons by whom such arrangements are to be carried out. *Sub-s. (2), ibid.,* provides that the Schemes shall be of two kinds, viz., air-raid general precautions schemes, which are to be prepared by councils of counties and county boroughs, and air-raid fire precautions schemes, which are to be prepared by councils of boroughs (including county boroughs) and by councils of urban and rural districts. In the case of air-raid general precautions schemes there is a provision (*sub-s. (2), (b), ibid.*) whereby borough or urban district councils may, on direction given by the Secretary of State, be substituted for county councils.

*Sub-s. (2).—**Substitution of borough or urban district council for county council.* See note to sub-s. (1), *supra*.

2. Suspension of certain provisions of Civil Defence Act, 1939.—(1) The operation of the Civil Defence Act, 1939, shall, during the period beginning with the passing of this Act and ending with such date as His Majesty may by Order in Council appoint, be suspended to the extent specified in the Schedule to this Act. [10]

(2) An Order under this section may be made either generally or in relation to any area, and either in relation to all provisions of the Civil Defence Act, 1939, the operation of which is suspended by this Act or in relation to any such provisions ; and may make such adaptation of any such provision as to the time within which anything is required or authorised to be done as appears to His Majesty in Council necessary or expedient in consequence of the operation of the provision having been suspended. [11]

*Sub-s. (1).—*The operation of the Civil Defence Act, 1939, is suspended to the extent specified in the Schedule. The provisions of the Schedule are best explained in the words of the Home Secretary, who, on moving the Second Reading of the Bill in the House of Commons on November 5, 1945 (415 H. of C. Official Reports, 942) said :—

"The Schedule, which in this case is really the most important and informative part of the Measure, describes the provisions of the 1939 Act which are to be suspended. We have purposely framed it in general words. The Bill, in general, leaves operative those provisions which have a present or continuing importance ; for example, for safeguarding persons in respect of acts done, and for maintaining the machinery for undoing arrangements made during the war. There are others which, even if not fully up to date in their wording, do not

require immediate action to be taken by anyone and accordingly can be left for consideration when decisions have been taken as to future policy. It is proposed not to suspend Part VII of the 1939 Act [Measures to deal with casualties and disease] at the express request of the Minister of Health, who requires it for the continued operation of the Emergency Medical Service."

Revival of suspended provisions by Order in Council.—In explanation of the procedure for revival of the suspended provisions by Order in Council, the Home Secretary, on moving the Second Reading of the Bill in the House of Commons on November 5, 1945 (415 H. of C. Official Reports 943) said :—

"The House will probably wish to know the reasons why the Government propose that, when the time comes to revive the suspended provisions, the procedure proposed is by way of Orders in Council instead of by substantive legislation. The explanation is that it is not contemplated that the revival of the suspended provisions shall be dependent upon the international situation or upon domestic politics. As and when the existing organisation in all its ramifications is reviewed and it is possible to prescribe a new technique, in the light of the experience of the hostilities now ended and of intelligence as to any new form of attack that seems possible, it is intended that the process of rebuilding Civil Defence within the framework of legislation now sanctioned, shall begin again in a quiet and orderly fashion. For that reason, for example, it is proposed in the Bill that an order under Clause 3 may be made generally or in relation to any area, and either in relation to all provisions of the Civil Defence Act, 1939, or in relation to any particular provisions. It seems to the Government that it would be better to proceed piecemeal and gradually, than to wait until guidance can be given upon every aspect. It would be wrong to take up the time of the House by introducing a Bill every time a particular aspect of Civil Defence had been surveyed and the Government were satisfied that the relevant provisions of the Civil Defence Acts could be brought into operation. Hence the adoption of the Order in Council Procedure. Naturally, if any radical alteration in the whole system of Civil Defence were found to be necessary or advisable, the Government would not attempt to proceed by way of Orders in Council, but would come to Parliament with new proposals in the ordinary way."

3. Provisions as to Orders in Council.—(1) Any Order in Council made under this Act shall be laid before Parliament as soon as may be after it is made.* [12]

(2) If either House of Parliament, within the period of forty days beginning on the day on which any such Order is laid before it, presents an Address to His Majesty praying that the Order be annulled, His Majesty in Council may annul the Order and it shall thereupon cease to have effect, without prejudice, however, to the validity of anything previously done thereunder or to the making of a new Order.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [13]

(3) Section one of the Rules Publication Act, 1893, shall not apply to any Order in Council made under this Act. [14]

4. Short title and citation.—This Act may be cited as the Civil Defence (Suspension of Powers) Act, 1945, and this Act and the Civil Defence Acts, 1937 and 1939, may be cited together as the Civil Defence Acts, 1937 to 1945. [15]

SCHEDULE

Section 2

1. The powers conferred by Part II of the Civil Defence Act, 1939, to designate premises for use for public purposes of civil defence, to enter on land, to construct or provide air-raid shelters and other premises and to carry out other work shall not be exercisable during the period of suspension; and any notice designating any premises for use as aforesaid in force immediately before the passing of this Act shall cease to have effect:

Provided that nothing in this paragraph shall affect any power of carrying out work of restoration or maintenance, or any power of entry for the purpose of carrying out such work.

2. No requirement imposed by Part III of the said Act of 1939, and no power conferred by the said Part III to impose any requirement, on the occupier of any factory premises or the owner of any mine or commercial building, or on any employer of persons in any such premises, mine or building, shall apply during the period of suspension, and no power to execute works conferred by the said Part III on any such occupier or owner shall be exercisable during that period.

3. A local authority shall not during the period of suspension be required, or have power, under Part IV of the said Act to carry out any work, or have power to make any advances thereunder, and no owner or occupier shall by virtue of the said Part IV be required, or have power, during that period to prepare any scheme or carry out any works for the purpose of providing air-raid shelter; and the restriction imposed by subsection (2) of section twenty-eight of the said Act on the removal from its position of any shelter or appliance erected or affixed by a local authority shall not apply to a shelter erected or appliance affixed before the beginning of the said period.

4. No requirement imposed by Part V of the said Act, and no power conferred by the said Part V to impose any requirement, on any public utility undertaker shall apply during the period of suspension; no grant shall be paid under the said Part V in respect of measures taken during the period of suspension, and no expenses incurred in taking any such measures shall be defrayed under the said Part V; and the power thereby conferred on the Central Electricity Board shall not be exercisable during that period:

Provided that nothing in this paragraph shall apply to measures taken or approved before the beginning of that period, or to the storage, insurance, maintenance, or disposal of plant, equipment or other property acquired by the said Board before the beginning of that period.

5. No requirement imposed by Part VI of the said Act (which relates to the obscuration of lights and camouflage), and no power conferred by the said Part VI to impose any requirement, shall apply during the period of suspension.

6. Section fifty-six of the said Act (which relates to plans for the transference of members of the civil population from one area to another in the event of war) shall not have effect, during the period of suspension, except in relation to the carrying out of such plans as aforesaid put into operation before the beginning of the said period.

7. No scheme under section fifty-eight of the said Act (which relates to the supply of water for extinguishing fires) shall be submitted during the period of suspension.

8. The powers of compulsory hiring of land conferred by Part VIII of the said Act, and the power of entry and inspection conferred by Part IX thereof, shall not be exercisable during the period of suspension, and the power of borrowing and applying money and of a mortgagee to add money to his security or of a heritable creditor to obtain a charging order conferred by section sixty-six of the said Act shall not be exercisable in relation to anything done during that period.

9. In this Schedule the expression "the period of suspension" means the period mentioned in subsection (1) of section two of this Act; and expressions used in this Schedule and in the said Act of 1939 have the same meanings in this Schedule as in that Act. [16]

See note to s. 2 (1), *supra*, on the contents of this Schedule.

ORDERS, CIRCULARS AND MEMORANDA

THE CIVIL DEFENCE (EMPLOYMENT AND OFFENCES) ORDER, 1945

S. R. & O., 1945, No. 466

May 1, 1945

In pursuance of the powers conferred on me by Regulations 29B and 38 of the Defence (General) Regulations, 1939, I hereby order as follows:—

1.—(1) The Civil Defence (Employment and Offences) (No. 3) Order, 1942, is hereby revoked.

(2) The Civil Defence (Employment and Offences) (No. 5) Order, 1941, Article 3 of the Civil Defence (Employment and Offences) Order, 1942, and Article 1 of the Civil Defence (Employment and Offences) (No. 5) Order, 1942, are hereby revoked. [17]

2.—(1) The powers conferred by the Civil Defence (Employment and Offences) Order, 1941, the Civil Defence (Employment and Offences) (No. 4) Order, 1941, and the Civil Defence (Employment and Offences) Order, 1942, on a Regional Commissioner shall be transferred to the Minister of Home Security; and accordingly references in the said Orders to a Regional Commissioner shall be construed as references to the Minister of Home Security.

(2) Any notice issued or thing done by a Regional Commissioner under a power transferred by the preceding paragraph and in force immediately before the coming into operation of this Order shall continue in force and have effect as if it had been issued or done by the Minister of Home Security under that power.

(3) Article 9 of the Civil Defence (Employment and Offences) Order, 1942, and Article 3 of the Civil Defence (Employment and Offences) (No. 5) Order, 1942, are hereby revoked. [18]

3. This Order may be cited as the Civil Defence (Employment and Offences) Order, 1945, and shall come into operation on the second day of May, 1945. [19]

This Order has now been revoked by S. R. & O., 1945, No. 1174, which also revoked S. R. & O., 1941, Nos. 455 and 1414, S. R. & O., 1942, Nos. 89 and 1113, and S. R. & O., 1943, No. 1475.

THE CIVIL DEFENCE (EMPLOYMENT AND OFFENCES) (No. 2) ORDER, 1945

S. R. & O., 1945, No. 527

May 2, 1945

This Order revoked S. R. & O., 1941, Nos. 1305 and 1914, and S. R. & O., 1942, Nos. 178 and 1114, and was itself revoked by S. R. & O., 1945, No. 1200, which also revoked S. R. & O., 1941, No. 471, and S. R. & O., 1942, No. 122, thus completing the revocation of all prior Civil Defence (Employment and Offences) Orders.

CASES

Negligence—Air-raid shelter—Steps to shelter uneven, inadequately illuminated and without centre hand-rail—Duty of local authority as occupier of premises—Nonfeasance of statutory obligations—Civil Defence Act, 1939 (c. 31), Pt. II, s. 4.

Emergency Legislation “War injury”—Personal Injuries (Emergency Provisions) Act, 1939 (c. 82), s. 8.

The appellant as the local authority in a particular borough took over an underground station in course of construction and converted it for use as a public air-raid shelter. From the street there was only one entrance, the doors of which opened inwards and led to a flight of nineteen steps. These steps were defective, very faintly illuminated, and, though 10 feet wide, without a hand-rail in the centre. There was no physical means of controlling the crowd and no warden posted there. On the occasion of an air-raid warning the respondent, her husband and daughter, along with a large number of other persons, were proceeding down the steps to the shelter at night, when some person fell causing a number of the other persons, including the respondent and her family, to fall and collect on one another, so that the respondent was injured and her husband and daughter killed. There had been previous complaints as to the condition of the steps. In an action by the respondent on her own behalf and as the administratrix of the estates of her husband and daughter, it was contended that the steps were in the nature of a trap which the appellants were aware of. For the appellants it was contended that:

(i) in converting the underground station for use as a public air-raid shelter, the appellants as the local authority were acting under the Civil Defence Act, 1939, Pt. II, s. 4, and, therefore, nonfeasance on their part gave rise to no liability; (ii) the injuries in question were "war injuries" within the meaning of the Personal Injuries (Emergency Provisions) Act, 1939, s. 8, and, therefore, the respondent's action was barred under s. 3; (iii) the accident was not caused by the defect in the steps but was the inevitable result of the pressure of the crowd pushing in behind upon those who were in front :—

Held : (i) the Civil Defence Act, 1939, Pt. II, s. 4, did not apply where a local authority became the occupier of premises taken over for use as an air-raid shelter.

(ii) the accident was due to the negligence or breach of duty of the appellants and, therefore, the injuries sustained as a result of the accident were not "war injuries" within the meaning of s. 8 of the Act.

Greenfield v. London and North Eastern Rail. Co., [1945] K. B. 89; [1944] 2 All E. R. 438, *applied*.

(iii) the appellants were aware that there was a strong probability of a large rush of people which in the absence of control would be dangerous. The appellants were, therefore, liable for breach of their duty to the respondent and her family.

Decision of SINGLETON, J. ([1944] 2 All E. R. 301), *affirmed*.—*BAKER v. BETHNAL GREEN CORPN.*, [1945] 1 All E. R. 135; 109 J. P. 72; 43 L. G. R. 75, C. A. [20]

ALTERATION OF AREAS

See AREAS OF LOCAL GOVERNMENT

ANIMALS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	Borough of Wallasey) Order, 1945	PAGE
Wild Birds Protection (County		Wild Birds Protection (Administrative County of Kent) Order, 1945	8 10

ORDERS, CIRCULARS AND MEMORANDA

THE WILD BIRDS PROTECTION (COUNTY BOROUGH OF WALLASEY) ORDER, 1945

S. R. & O., 1945, No. 65

January 16, 1945

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the County Borough of Wallasey, I hereby make the following Order :—

TITLE

I. This Order may be cited as The Wild Birds Protection (County Borough of Wallasey) Order, 1945. [21]

BIRDS

Additions to the Schedule to the Act of 1880

II. The Wild Birds Protection Act, 1880, shall apply throughout the County Borough of Wallasey to the following species of Wild Birds in the same manner as if those species were included in the Schedule to the Act :—

Herons,

Kestrels.

[22]

All Birds protected throughout the County Borough during the whole of the Year

III. During that period of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not extend, the killing or taking of all Wild Birds is prohibited throughout the County Borough of Wallasey.

[23]

EGGS

Certain Eggs protected throughout the County Borough

IV. The taking or destroying of the Eggs of the following species of Wild Birds is prohibited throughout the County Borough of Wallasey :—

Bitterns,

Wild Duck,

Dunlins,

Grebes,

Gulls, except Black-backed Gulls,

Hawfinch,

Herons,

Kestrels,

Kingfisher,

Lapwing (Peewit, Green Plover),

Nightjars,

Owls,

Oyster-catcher,

Redshanks,

Sandpipers,

Shrikes,

Terns,

Twites,

Woodpeckers.

[24]

All Eggs protected within a certain Area, market-garden lands excepted

V. The taking or destroying of the Eggs of any species of Wild Bird is prohibited within the undermentioned area :—

That portion of the County Borough of Wallasey enclosed within a line commencing at the point at which the eastern boundary of "The Cliff" if extended in a straight line meets the low-water mark of the Irish Sea, thence southward to and along the said boundary to the London Midland and Scottish Railway, thence westward along the said Railway to Sea Road, thence southward along Sea Road to the southern boundary of the Municipal Golf Links, thence westward along the said boundary to Sandcliffe Road, thence northward along Sandcliffe Road to the southern boundary of Harrison Park, thence generally westward along the said boundary to Harrison Drive and continuing in the same direction to the London Midland and Scottish Railway, thence southward along the said Railway to the boundary of Wallasey Parliamentary Borough, thence generally westward along the said boundary to and along the southern boundary of Leasowe Common to the easterly boundary of Bankfield, thence southward along the said boundary to the River Birket, thence due south-west to a line 100 feet south of the River Birket, thence south-westward along the said line as far as the junction of the River Birket and Arrowe Brook, thence south-westward following a line 100 feet south of Arrowe Brook to the boundary between the Saughall Massie and Moreton Wards, thence south-eastward along the said boundary to the London Midland and Scottish Railway, thence westward along the said Railway to the County Borough boundary, thence generally north-westward along the said boundary to the low-water mark of the Irish Sea, thence north-eastward along the said low-water mark to the point of commencement aforesaid.

Provided that such parts of the area aforesaid as are market-garden lands are excepted from the operation of this Clause.

The area aforesaid is coloured pink on a map sealed with the seal of the Secretary of State, dated the 16th January, 1945, and deposited in the office of the Council. [25]

Repeal of former Order

VI. The Order of the 28th February, 1936, is hereby repealed. [26]

THE WILD BIRDS PROTECTION (ADMINISTRATIVE COUNTY OF KENT) ORDER, 1945

S. R. & O., 1945, No. 1518

November 29, 1945

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the Administrative County of Kent, I hereby make the following Order :—

1. This Order may be cited as The Wild Birds Protection (Administrative County of Kent) Order, 1945. [27]

2. The provisions of the Wild Birds Protection (Administrative County of Kent) Order, 1936, exempting the whole of the said Administrative County from the operation of the Wild Birds Protection Act, 1880, so far as the Little Owl is concerned and prohibiting the taking or destroying of Wild Birds' Eggs within the areas specified in Article VII of the Order shall continue to have effect after the 31st December, 1945. [28]

APPROVED SCHOOLS

See INFANTS, CHILDREN AND YOUNG PERSONS

AREAS OF LOCAL GOVERNMENT

STATUTES :—	PAGE	ORDERS, CIRCULARS AND MEMORANDA :	PAGE
Local Government (Boundary Commission) Act, 1945	10	Local Government (Boundary Commission) Regulations, 1945	16

STATUTES

THE LOCAL GOVERNMENT (BOUNDARY COMMISSION) ACT, 1945

(8 & 9 Geo. 6, c. 38)

PRELIMINARY NOTE

Before the present Act was passed the alteration of local government areas was governed by Part VI of the Local Government Act, 1933. In particular, the alteration of boundaries of counties and boroughs, the union of counties with counties or with county boroughs, the division of counties, and the alteration of any area of local government partly situate in a county, were regulated by s. 140 ; the alteration of urban or rural districts or parishes was regulated by s. 141 ; the adjustment of

boundaries of counties and county boroughs was regulated by s. 143 ; while s. 146 provided for the review of county districts by county councils. County councils were responsible for reviewing the circumstances of their counties and initiating any internal rearrangements of the district boundaries, whereas the creation of county boroughs and, in the absence of agreement, the extension of county boroughs was reserved to Parliament. This produced the result that problems which should have been dealt with as a whole were dealt with partly by Parliamentary Committees and partly by county councils.

The present Act, which received the Royal Assent on June 15, 1945, provides for the establishment of a Local Government Boundary Commission for dealing with alterations to local government areas in England and Wales. The Act follows the proposals set out in the White Paper on Local Government during the Reconstruction Period (Cmd. 6579) published on January 3, 1945. Under the Act the Commission, which is to consist of a chairman, a deputy-chairman, and three other members (*see* Schedule I, *post*), takes over the powers both of the County Council and the Minister of Health, and in matters where its orders do not have to come before Parliament for confirmation there will henceforth be only one inquiry stage. General principles for the guidance of the Commission in discharging their functions under the Act are contained in the Local Government (Boundary Commission) Regulations, 1945, *post*.

The powers of the Commission do not extend to the administrative County of London (s. 1 (1)) ; and any order made by the Commission relating to a county or county borough is subject to special parliamentary procedure (Statutory Orders (Special Procedure) Act, 1945, s. 8, and Schedule II, *post*). Once an order is made by the Commission relating to any area it may not consider altering that area again for ten years save in exceptional circumstances (s. 3 (8)).

Ss. 140, 143 and 146 of the Local Government Act, 1933, are wholly repealed, and s. 141 is repealed in part, so that the alteration, division, etc., of parishes alone now remains a matter for the county council concerned (*see* Schedule II, *post*). The supplementary provisions set out in ss. 148-154, 275 of the Act of 1933 are to apply in relation to orders under the present Act (s. 4).

S. 139 of the Act of 1933 is amended, so that no borough council can henceforth promote a bill for the purpose of constituting the borough a county borough unless the population of the borough is one hundred thousand or upwards (s. 3 (12)).

The constitution and proceedings of the Commission are set out in Schedule I to the Act, and the procedure in connection with the exercise of functions by the Commission is prescribed by the Local Government (Boundary Commission) Regulations, 1945, *post*. [29]

ARRANGEMENT OF SECTIONS

Section	Page
1. Establishment of Local Government Boundary Commission	11
2. Power of Commission to alter areas	12
3. Exercise of powers of Commission	12
4. Supplementary provisions as to orders	14
5. Annual report of Commission	14
6. Saving for royal prerogative	14
7. Saving for municipal corporations	15
8. Short title, citation and repeals	15

SCHEDULES :—

First Schedule.—Constitution and Proceedings of Local Government Boundary Commission	15
Second Schedule.—Repeal of certain Provisions of Local Government Act, 1933	16

An Act to provide for the establishment of a Local Government Boundary Commission ; to make further provision for the alteration of local government areas in England and Wales exclusive of London ; and for purposes connected with the matters aforesaid. [15th June, 1945.]

1. Establishment of Local Government Boundary Commission.—(1) There shall be established a Local Government Boundary Commission (in this Act

referred to as "the Commission") which shall be charged with the duty of reviewing the circumstances of the areas into which England and Wales (exclusive of the administrative county of London) are divided for the purposes of local government, and exercising, where it appears to the Commission expedient so to do, the powers of altering those areas conferred by the following provisions of this Act. [30]

(2) The provisions of the First Schedule to this Act shall have effect as to the constitution and proceedings of the Commission. [31]

(3) The Minister of Health (in this Act referred to as "the Minister") may, after consultation with such associations of local authorities as appear to him to be concerned, make regulations prescribing general principles by which the Commission are to be guided in the exercise of their functions under this Act, but such regulations shall be of no effect until approved by resolution of each House of Parliament. [32]

Regulations prescribing principles.—The Local Government (Boundary Commission) Regulations, 1945, *post*. These regulations have been approved by both Houses of Parliament.

2. Power of Commission to alter areas.—(1) The Commission shall have power—

- (a) to alter or define the boundaries of a county, county borough or county district ;
- (b) to unite a county with another county, or a county borough with another county borough, or to unite a non-county borough with another non-county borough, or an urban or rural district with another district, whether urban or rural, or to include an urban or rural district in a non-county borough or any county district in a county borough ;
- (c) to divide a county into, being or among two or more counties or an urban or rural district into two or more districts, whether urban or rural, or between or among two or more areas, whether county boroughs or county districts ;
- (d) to constitute a borough (either by itself or together with the whole or any part of another county district) a county borough ;
- (e) to direct that a county borough shall become a non-county borough and specify the county in which it is to be included ;
- (f) to constitute a new urban or rural district, or to convert a rural district into an urban district or an urban district into a rural district ;
- (g) so far as appears to the Commission to be requisite in connection with any exercise of their powers under the foregoing paragraphs, to alter the boundary between a parish and another parish, to unite a parish with another parish, to divide a parish into, between or among two or more parishes, or to constitute a new parish :

Provided that no part of the administrative county of Middlesex shall be constituted a county borough. [33]

(2) For the avoidance of doubt it is hereby declared that nothing in this Act affects the power of His Majesty to grant a commission of the peace and a court of quarter sessions to any borough, whether constituted in pursuance of this section or otherwise. [34]

(3) References in this Act to the alteration of an area include references to the exercise in relation to the area of any of the powers conferred by subsection (1) of this section. [35]

3. Exercise of powers of Commission.—(1) Where the Minister directs the Commission to take into consideration the question whether any alterations ought to be made under the last foregoing section in respect of any areas of

local government, or where the Commission without any such direction consider it desirable so to do, then, subject to the provisions of this section, they shall take that question into consideration. [36]

(2) If application in that behalf is made to the Commission with respect to—

- (a) the area of a county or county borough, by the council thereof; or
- (b) the area of a county district, by the council of the county in which the district is situated,

the Commission shall take into consideration the question whether or not alterations under the last foregoing section ought to be made with respect to the area. [37]

(3) The Commission in considering whether it is desirable to take into consideration the question whether any alterations ought to be made under the last foregoing section in respect of any area of local government, and the Minister or the council of a county in considering whether to give a direction or to make an application under subsection (1) or subsection (2) of this section, shall have regard to any representations made by the council of a county district included in the area in question. [38]

(4) If application in that behalf is made to the Commission by the council of any borough with a population of one hundred thousand or upwards, as estimated by the Registrar-General, the Commission shall take into consideration the question whether or not the power conferred by the last foregoing section of constituting the borough a county borough ought to be exercised. [39]

(5) The Commission shall comply with any direction of the Minister that for the purposes of this section they are to give priority to any area or areas, or class of areas, specified in the direction. [40]

(6) Where the Commission determine that any alteration of areas ought to be made, they shall by order direct that the alteration shall have effect. [41]

(7) Where the Commission determine that no such alteration ought to be made, they shall embody their determination in an order. [42]

(8) Where an order under subsection (6) or (7) of this section relating to any area has come into operation, then, notwithstanding anything in the foregoing provisions of this section, the Commission shall not, within ten years after the order came into operation, take into consideration the question of altering that area unless they are satisfied that by reason of a substantial change in the distribution of population or other exceptional circumstances it is desirable so to do. [43]

(9) An order under subsection (6) or (7) of this section relating to a county or a county borough (including an order directing that a county borough be constituted or that a county borough shall become a non-county borough or embodying a determination that such a direction ought not to be given) shall be [subject to special parliamentary procedure]. [44]

(10) The procedure in connection with the exercise by the Commission of their functions under this section shall be such as may be prescribed by regulations made by the Minister and approved by resolution of each House of Parliament, and such regulations—

- (a) shall make provision for opportunities for objection by persons likely to be affected by any order proposed to be made under this section, and for securing that, where objections are made by the council of any county, county borough or county district likely to be so affected or in such other circumstances as may be specified in the regulations and are not withdrawn, a local inquiry shall be held before an order is made :

- (b) may empower the holding of local inquiries generally for the purposes of this section, and make provision as to the conduct of local inquiries held in pursuance of the regulations and in particular for limiting the calling of evidence at such inquiries and the manner in which persons may be represented thereat,

and subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence on, and defraying the costs of, local inquiries) shall apply to local inquiries held as aforesaid as they apply to the local inquiries mentioned in subsection (1) of the said section two hundred and ninety. [45]

(11) As soon as may be after the Commission have made such an order as is mentioned in subsection (9) of this section, they shall prepare and transmit to the Minister a statement describing shortly the proceedings leading to the making of the order, summarising any representations made for or against the order, and setting out the considerations which led the Commission to make the order, and the Minister shall lay the statement before Parliament. [46]

(12) In section one hundred and thirty-nine of the Local Government Act, 1933 (under which the power to promote a Bill for the purpose of constituting a borough a county borough is limited to boroughs with a population of seventy-five thousand or upwards), for the words "is seventy-five thousand" there shall be substituted the words "as estimated by the Registrar-General is one hundred thousand". [47]

Sub-s. (9).—The words "subject to special parliamentary procedure" in square brackets were substituted for the words "provisional only and shall be of no effect until confirmed by Parliament" by the Statutory Orders (Special Procedure) Act, 1945, Schedule II, *post*.

Sub-s. (10).—*Regulations prescribing procedure.* These are the Local Government (Boundary Commission) Regulations, 1945, *post*.

Local Government Act, 1933, ss. 139, 290.—S. 139, which replaces s. 1 (2) (repealed) of the Local Government (County Boroughs and Adjustments) Act, 1926, enacted that the council of a borough should not promote a Bill for the purpose of constituting the borough a county borough unless the population of the borough was seventy-five thousand or upwards. The population must now be one hundred thousand or upwards as estimated by the Registrar General (*sub-s. (12), supra*). S. 290 relates to the power of Government Departments to direct local inquiries to be held.

4. Supplementary provisions as to orders.—The supplementary provisions set out in sections one hundred and forty-eight to one hundred and fifty-four and section two hundred and seventy-five of the Local Government Act, 1933, shall apply in relation to orders under this Act altering an area of local government as if this Act were included in Part VI of that Act (which provides for the alteration of such areas), and as if references in those provisions to the making of an order by the Minister included references to the making of an order by the Commission. [48]

Local Government Act, 1933, ss. 148-154, 275.—The sections deal respectively with supplementary provisions as to alterations of areas (s. 148); miscellaneous provisions relating to orders (s. 149); transfer and compensation of officers (s. 150); financial adjustments (s. 151); special provisions as to adjustments (s. 152); intersection of local government areas (s. 153); saving for Parliamentary areas (s. 154); and transfer of stock on alteration of area (s. 275).

5. Annual report of Commission.—As soon as may be after the end of the year nineteen hundred and forty-six and each subsequent year the Commission shall prepare and transmit to the Minister a report of their proceedings for the year in question, and the Minister shall lay the report before Parliament. [49]

6. Saving for royal prerogative.—The powers conferred by this Act shall be in addition to, and not in derogation from, the powers exercisable by His Majesty by virtue of his royal prerogative. [50]

7. **Saving for municipal corporations.**—Save as is in this Act provided nothing in this Act shall prejudicially alter or affect the rights, privileges and immunities of any municipal corporation or the operation of any municipal charter. [51]

8. **Short title, citation and repeals.**—(1) This Act may be cited as the Local Government (Boundary Commission) Act, 1945, and the Local Government Act, 1933, and this Act may be cited together as the Local Government Acts, 1933 and 1945. [52]

(2) The provisions of the Local Government Act, 1933, specified in the first column of the Second Schedule to this Act, which relate to the matters specified in the second column of that Schedule, are hereby repealed to the extent specified in the third column of that Schedule. [53]

SCHEDULES

Section 1

FIRST SCHEDULE

CONSTITUTION AND PROCEEDINGS OF LOCAL GOVERNMENT BOUNDARY COMMISSION

Constitution

1. The Commission shall be a body corporate by the name of the Local Government Boundary Commission, and shall consist of a chairman, a deputy chairman and three other members.

2.—(1) The members of the Commission shall be appointed by His Majesty, and shall hold and vacate office in accordance with the terms of their respective appointments.

(2) A person who has ceased to be a member of the Commission shall be eligible for re-appointment.

3. A person shall be disqualified from being appointed to or being a member of the Commission so long as he is a member of the Commons House of Parliament.

4. There shall be paid to a member of the Commission such salary or fees and allowances as may be determined by the Treasury at the time of his appointment.

5. The Commission shall have a common seal, which shall be authenticated by the signature of a member of the Commission or of any other person authorised in that behalf by the Commission.

Capacity and proceedings

6. The Commission shall have power to act notwithstanding a vacancy among the members thereof, and at any meeting of the Commission three shall be the quorum.

7. All acts done at a meeting of the Commission shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of a person purporting to be a member thereof, be as valid as if the defect had not existed.

8. Subject to the foregoing provisions of this Schedule, and to any regulations made under this Act or directions given by the Minister under section three of this Act, the procedure of the Commission shall be such as the Commission may from time to time determine.

Officers and servants, and remuneration and expenses

9. The Commission may appoint a secretary and such number of officers and servants as may be determined by the Commission after consultation with the Minister and with the consent of the Treasury, and there shall be paid to the secretary, officers and servants of the Commission such salaries, fees and allowances as may be so determined.

10. The expenses of the Commission, and the salaries, fees and allowances of the members of the Commission and their secretary, officers and servants, shall be defrayed out of moneys provided by Parliament.

Proof of documents

11.—(1) Every document purporting to be an instrument made or issued by the Commission and to be duly sealed with the seal of the Commission or to be signed by the secretary, or any person authorised to act in that behalf, shall be received in evidence, and shall, unless the contrary is proved, be deemed to be an instrument made or issued by the Commission.

(2) Prima facie evidence of any such instrument may in any legal proceedings be given by the production of a document purporting to be certified to be a true copy of the instrument by or on behalf of the secretary. [54]

Section 8

SECOND SCHEDULE

REPEAL OF CERTAIN PROVISIONS OF LOCAL GOVERNMENT ACT, 1933

Provision repealed	Subject matter of provision	Extent of repeal
s. 140	Alteration of boundaries of counties, boroughs, etc.	The whole section.
s. 141	Alteration of urban or rural districts and parishes, etc.	In subsection (1). In paragraphs (a) and (b) respectively, the words "of an urban or rural district or." In paragraphs (c) and (d) respectively, the words from the beginning to the third "or." Paragraph (e). In paragraph (f), the words "urban or rural district or."
s. 143	Adjustment of boundaries of counties and county boroughs.	The whole section.
s. 146	Review of county districts by county councils.	The whole section.

[55]

Local Government Act, 1933, ss. 140, 141, 143, 146.—Ss. 140, 143 and 146, which are wholly repealed, contained the previous provisions as to the alteration of boundaries, counties, etc., the adjustment of boundaries of counties and county boroughs, and the review of county districts by county councils. S. 141 related to the alteration of urban or rural districts and parishes. As now amended, it relates only to parishes, the alteration of which remains a matter for the county council concerned.

ORDERS, CIRCULARS AND MEMORANDA

THE LOCAL GOVERNMENT (BOUNDARY COMMISSION) REGULATIONS, 1945

S. R. & O., 1945, No. 1569

November 15, 1945 *

104717.

The Minister of Health, in pursuance of his powers under subsection (3) of section 1 and subsection (10) of section 3 of the Local Government (Boundary Commission) Act, 1945, hereby makes the following regulations:—

* These Regulations were approved by resolution of the House of Commons, December 10, 1945, and the House of Lords, December 13, 1945, in accordance with sections 1 (3) and 3 (10) of the Local Government (Boundary Commission) Act, 1945.

PART I

Interpretation

1. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [56]
2. In these regulations the expression " the Act " means the Local Government (Boundary Commission) Act, 1945. [57]
3. These regulations may be cited as the Local Government (Boundary Commission) Regulations, 1945. [58]

PART II

General Principles

4. The general principles set out in the schedule to these regulations are laid down for the guidance of the Commission in discharging their functions under the Act. [59]

PART III

Procedure

5.—(1) In considering whether any alteration ought to be made under section 2 of the Act, either after an application has been made under subsection (2) or subsection (4) of section 3, or after a direction has been given under subsection (1) of section 3, or without the making of any such application or giving of any such direction, the Commission shall (in all cases and, where a local inquiry is to be held, before the holding of the inquiry) make all such investigations and obtain from the local authorities concerned and other sources all such statistical and other information as they consider necessary and for that purpose and with a view to securing agreement, so far as possible, upon the facts and ascertaining any substantial issues in dispute they shall hold, by themselves or their officers or other persons, such conferences and consultations and make such inspections as seem to them appropriate.

(2) Before commencing to take action under paragraph (1) of this regulation the Commission shall give notice that they are about to do so to the council of every county, county borough and county district likely to be affected.

(3) As soon as may be after completing action under paragraph (1) of this regulation the Commission shall—

- (a) supply the council of every county, county borough or county district likely to be affected with a statement of the nature of any order which they propose to make and in particular of any alteration of boundary or status which would be effected by the order ;
- (b) arrange with every such council for a copy of the said statement to be available for public inspection ;
- (c) cause a notice to be published in the London Gazette, and in one or more local newspapers circulating in the said county, county borough or county district, specifying the areas and authorities that may be affected and indicating that a copy of the said statement is available for inspection as aforesaid, and that objections may be lodged with the Commission within a time to be stated in the notice. [60]

6.—(1) The Commission may cause a local inquiry to be held for any of the purposes of section 3 of the Act and may for that purpose authorise any person or persons, whether members or officers of the Commission or not, to hold the inquiry.

(2) The Commission may authorise any officer of the Commission or other person to act as assessor or clerk at an inquiry held under this regulation.

(3) Before making any order under section 3 of the Act the Commission shall cause a local inquiry to be held in any case in which an objection to the proposed order has been notified to the Commission by any of the following and has not been subsequently withdrawn, namely—

- (a) the council of any county, county borough or county district likely to be affected by the making of the proposed order; and
- (b) any person who in the opinion of the Commission ought to be afforded an opportunity of stating his objections at a local inquiry and having them duly considered.

(4) Before a local inquiry is held in accordance with this regulation the Commission shall cause a notice of the inquiry to be published in the London Gazette, and in one or more local newspapers circulating in the said county, county borough or county district, at least one month before the inquiry is held, which notice shall indicate that all parties interested may appear at the inquiry. [61]

7. At an inquiry a local authority may be represented by a member or officer or by any legal or other representative and any other party may be heard in person or by any legal or other representative. It shall be the duty of the person holding the inquiry to exclude evidence which is not directed to disputed questions of fact or to *bona fide* differences of opinion. For this purpose he may, at his discretion, hear addresses by or on behalf of all the parties before the calling of evidence by any party, and may, having heard all such addresses, direct that evidence shall not be called except upon such facts or matters of opinion as are in dispute between the parties, and may limit any right of reply to comment on such evidence. Not more than one expert witness shall be heard on the same subject on behalf of any one party, except by leave of the Commission or of the person holding the inquiry. [62]

8. The Commission shall not include in any order a provision altering the boundaries of the Metropolitan Police District except after consultation with the Secretary of State. [63]

SCHEDULE

GENERAL PRINCIPLES

1. The object of all alterations in status of local government authorities and of all alterations in the boundaries of local government areas is to ensure individually and collectively effective and convenient units of local government administration. This object is the governing principle by which the Commission are to be guided in exercising their functions under the Act.

2. In attaining this object all factors relevant to the areas under review shall be considered by the Commission. The following are some of the main factors placed in alphabetical order :—

- (a) Community of interest.
- (b) Development, or anticipated development.
- (c) Economic and industrial characteristics.
- (d) Financial resources measured in relation to financial need, including in particular, but not exclusively, the average rateable value per head of population, rates raised per head of population and the estimated product of a given rate poundage.
- (e) Physical features including in particular, but not exclusively, suitable boundaries, means of communication and accessibility to administrative centres and centres of business and social life.
- (f) Population—size, distribution and characteristics.
- (g) Record of administration by the local authorities concerned.
- (h) Size and shape of the areas.
- (i) Wishes of the inhabitants.

The weight to be given to the several factors will vary from case to case, but each of them should be viewed in the light of the governing principle stated in the last preceding paragraph.

3. The interests of an urban centre and the surrounding countryside should not necessarily be regarded either as diverse or as complementary. All factors should be considered to discover whether on balance a blending of urban and rural territories is desirable.

4. The growth of publicly directed development in connection with housing, planning and similar activities makes it possible to foresee the course of development with greater accuracy than in the past. Where, under the practice which obtained in the past, alterations of boundaries have commonly followed such development, the foregoing consideration may justify making alterations at an earlier stage than formerly, so that any change which may be found desirable in the light of the principles and factors mentioned in the preceding paragraphs of this schedule can be effected with less disturbance of local government administration and finance.

5. In considering the governing principle it is essential to take into account the effects of any alterations of status or boundaries on all local government authorities whose problems are, in the Commission's opinion, interrelated and likely to be substantially affected thereby. The Commission shall therefore, so far as is practicable, consider the circumstances of all such authorities at one and the same time.

6. Where the Commission are of opinion that more effective local government might be secured by a combination of local authorities for particular services or by establishing contractual arrangements between authorities for the use of particular facilities or accommodation than by any alteration of boundaries or status of the authorities, the Commission may bring the matter to the notice of the Minister of Health and may postpone the making of an order under the Act until after they have been informed of the outcome of the Minister's consideration of the matter.

7. It is not intended that the discretion of the Commission shall be limited by reference to population figures, but the following considerations are stated for the general guidance of the Commission :—

- (a) an order reducing an existing county borough to the status of a non-county borough should not ordinarily be made unless the population of the county borough as estimated by the Registrar-General is less than 60,000 ;
- (b) in the absence of substantial agreement an order uniting a county with another county should not ordinarily be made unless the population of the smaller county as so estimated is less than 100,000.

8. The Commission shall take all practicable steps to discourage local authorities and other persons from incurring unnecessary expense in connection with local inquiries and other business transacted under the Act. [64]

* * * * *

BUILDING

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	PAGE
General Licence in relation to Building Undertakings and Civil	Engineering Contracting Undertakings — — — — —	19
	Building and Civil Engineering Contracting (Hours of Employment)	20
	Direction, 1945 — — — — —	20

ORDERS, CIRCULARS AND MEMORANDA

GENERAL LICENCE IN RELATION TO BUILDING UNDERTAKINGS AND CIVIL ENGINEERING CONTRACTING UNDERTAKINGS

S. R. & O., 1945, No. 245

March 9, 1945

The Board of Trade in pursuance of Article 1 of the Location of Retail Businesses Order, 1942 (as amended by the Location of Retail Businesses

(No. 2) Order, 1942), hereby authorise any person, who is carrying on a building undertaking or a civil engineering contracting undertaking, to carry on at any premises a retail business consisting only of the supply, in pursuance of contracts of work, labour and materials made in the course of his said undertaking, of goods falling within the categories of goods specified in paragraphs 25 and 40 of Part I of the Schedule to the said Order.

For the purpose of this Licence—

the expressions “building undertaking” and “civil engineering contracting undertaking” have the meanings assigned to those expressions in Regulation 56AB of the Defence (General) Regulations, 1939.

This Licence shall come into operation on the 15th day of March, 1945.

[65]

* * * *

EXPLANATORY NOTE

This General Licence permits building or civil engineering contracting undertakings to supply articles of ironmongery (e.g. taps, paints, etc.) and electrical goods (other than radio goods, electric torches and torch batteries) in the course of contracts of work, labour and materials. The Licence does not permit the supply of the relevant goods by sale, nor does it absolve such contractors from complying with the provisions of Defence Regulation 56AB.

THE BUILDING AND CIVIL ENGINEERING CONTRACT- ING (HOURS OF EMPLOYMENT) DIRECTION, 1945

S. R. & O., 1945, No. 478

May 2, 1945

For the purpose of subparagraph (b) of paragraph (4) of Regulation 56AB of the Defence (General) Regulations, 1939, the Minister of Works hereby directs as follows :—

1. The Building and Civil Engineering Contracting (Hours of Employment) (No. 1) Direction, 1942, is hereby revoked. [66]

2. The following conditions as to hours of employment shall be observed in every building undertaking and civil engineering contracting undertaking :—

Except as hereinafter provided, not more than fifty-four hours a week are to be worked on weekdays ; and Sunday work is not permitted. [67]

3. The conditions specified in paragraph 2 of this Direction shall not apply to :—

- (a) (i) repair of services, of war factories, and of essential houses damaged as a result of enemy action, during a period of fourteen days after the occurrence of such damage or during such longer period as the Minister may specially permit ;
- (ii) emergency repair work necessary in the interests of health or safety, or work requiring to be carried out without delay as a result of serious mishap or emergency arising on an important construction job ;
- (iii) work of exceptional urgency generally or specifically authorised by the Minister of Works ;
- (iv) preparatory work necessarily done during the weekend or before or after working hours to enable the hours worked by the general body of workers to be productive ;

- (v) railway work, where for traffic reasons weekend work or work for more than 54 hours a week on weekdays is necessary ; and tidal work ;
- (vi) the unloading of railway wagons, when transport conditions require the release of wagons with a minimum of delay.
- (b) Continuous shift work not being work within one of the classes specified in paragraph (a) of this paragraph, provided that in the case of such work the working week shall not exceed six days (including Sunday, if worked) nor shall the total number of hours worked exceed fifty-four. [68]

4. The provisions of this Direction shall be in addition to and not in derogation of the provisions of any enactment, regulation, order, direction or other provision having statutory force relating or applicable to hours of employment in building or civil engineering contracting undertakings. [69]

5. This Direction may be cited as the Building and Civil Engineering Contracting (Hours of Employment) Direction, 1945, and shall come into force on the 14th day of May, 1945. [70]

* * * * *

EXPLANATORY NOTE

This Direction reduces the maximum number of hours that may be worked on weekdays in building and civil engineering contracting undertakings from 60 per week to 54 per week ; maintains the condition that Sunday work is not permitted in such undertakings ; and specifies the circumstances in which hours of work may exceptionally exceed 54 per week on weekdays and work on Sundays may be carried out.

BURIAL AND CREMATION

STATUTES :—	PAGE	ORDERS, CIRCULARS AND MEMORANDA :—	PAGE
Welsh Church (Burial Grounds) Act, 1945	21	Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942, Regulation 3 amended	25

STATUTES

THE WELSH CHURCH (BURIAL GROUNDS) ACT, 1945

(8 & 9 Geo. 6, c. 27)

PRELIMINARY NOTE

This Act settles the long outstanding problem of the transfer of the Welsh Church burial grounds. Under the Welsh Church Act, 1914, which disestablished the Church of England in Wales, burial grounds in Wales were vested in the Welsh Commissioners who were required to transfer them to different authorities in accordance with their categories. Burial grounds which had been given as private benefactions after the Act of Uniformity, 1662, were to be transferred to the representative body of the Church in Wales, and this, in large measure, was accomplished. Closed burial grounds were to be similarly treated. The remaining burial grounds, which constituted the greatest number, and which were sometimes known as "ancient burial grounds," since they were in existence before 1662, were to be vested in existing incumbents during their incumbencies and were then to be transferred to burial or local authorities. For various reasons these authorities

refused to accept many of the burial grounds and a large number therefore remained vested in the Welsh Commissioners. The present Act provides for the transfer of all burial grounds now vested in the Welsh Commissioners to the representative body subject to the rights of persons who were incumbents at the time of the passing of the 1914 Act to have the grounds vested in them during their incumbencies. Where a burial ground has already been received by a local authority in pursuance of the 1914 Act, or would be received on the termination of an existing incumbency, the representative body may enter into an agreement with the authority concerned for the transfer of the ground to the representative body. There is imposed upon the representative body an obligation to maintain in decent order any burial ground transferred to them, and, in the matter of burial, no discrimination is to be made between members of the Church in Wales and other persons. [71]

An Act to amend the provisions of the Welsh Church Act, 1914, relating to burial grounds and for purposes connected therewith. [15th June, 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Untransferred burial grounds.—(1) Any burial ground which, immediately before the commencement of this Act, is vested in the Welsh Commissioners by virtue of the Welsh Church Act, 1914 (hereinafter referred to as "the principal Act") shall, by virtue of this Act and without more, vest as from the appointed day in the representative body :

Provided that, where, but for the provisions of this Act, the incumbent of an ecclesiastical parish would, immediately before the said day, be entitled to have any such burial ground transferred to him under paragraph (b) of subsection (1) of section eight of the principal Act as being the existing incumbent within the meaning of that Act, that ground shall vest in him during his incumbency and subject thereto in the representative body. [72]

(2) Notwithstanding anything in any enactment, the interest of an incumbent in a burial ground vested in him by virtue of the proviso to the foregoing subsection and the interest therein of the representative body shall be legal estates, and no burial ground shall be deemed to be settled land by reason only of its vesting in accordance with that proviso. [73]

(3) Subject to the following provisions of this Act, any burial ground vested by this section shall be held subject to any public or private rights of burial therein or otherwise with respect thereto to which it is subject at the time of vesting. [74]

(4) The Welsh Commissioners shall deliver to the representative body a schedule specifying to the best of their knowledge and belief the burial grounds which, immediately before the commencement of this Act, are vested in them by virtue of the principal Act and, as respects each such ground, the land comprised therein and the rights to which it is subject on its vesting on the appointed day ; and—

(a) it shall be presumed, unless the contrary is proved or is stated in the schedule, that the Welsh Commissioners have from the date of disestablishment until the appointed day been in possession of any burial ground included in the schedule ; and

(b) subsection (6) of section forty-five of the Law of Property Act, 1925, shall apply to all statements and descriptions of facts and matters contained in the schedule so as to make them evidence of the truth of such facts and matters to the like extent as if they were contained in a deed executed on the date of the commencement of this Act.

[75]

Effect of section.—This section relates to untransferred burial grounds and covers all grounds remaining vested in the Welsh Commissioners, being principally those "ancient" grounds which local authorities had refused to accept.

The appointed day.—This expression is defined in s. 5, *post*, as meaning such day as the Secretary of State, after consultation with the Welsh Commissioners and the representative body, may by order appoint.

The representative body.—This body is defined in s. 5, *post*, as being the representative body established under s. 13 (2) of the Welsh Church Act, 1914.

S. 8 (1) (b) of the 1914 Act provided that burial grounds not being transferred to the representative body under that Act should vest in the existing incumbent during his incumbency and then in the burial or local authority. Sub-s. (1) (proviso) preserves this right of the incumbent and sub-s. (2) contains a somewhat unexpected provision that, in these circumstances, the incumbent and, after him, the representative body, shall have a legal estate in the burial ground and that no burial ground shall be deemed settled land by reason only of its vesting in accordance with the proviso. It should be noted, in this connection, that land vested in the Welsh Commissioners is deemed to be settled land (S. R. & O., 1923, No. 774).

The date of disestablishment.—This was fixed as March 31, 1920, by the Welsh Church (Temporalities) Act, 1919.

Law of Property Act, 1925, s. 45 (6).—The subsection is as follows:—

(6) Recitals, statements and descriptions of facts, matters and parties contained in deeds, instruments, Acts of Parliament, or statutory declarations, twenty years old at the date of the contract, shall, unless and except so far as they may be proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters and descriptions.

2. Transferred burial grounds.—(1) Where, before the commencement of this Act, the burial ground of any ecclesiastical parish has been transferred by the Welsh Commissioners under paragraph (b) of subsection (1) of section eight of the principal Act so as to vest in, or in trustees on behalf of, any authority or body, whether immediately or on the determination of the incumbency of the then incumbent, that authority or body (or its successor in title) and the representative body may enter into an agreement for the transfer of the burial ground to the representative body upon such terms, subject to the following provisions of this Act, as may be agreed between them.

[76]

(2) Subsections (3) and (4) of section twenty-four of the principal Act shall cease to apply to any burial ground transferred in pursuance of any such agreement. [77]

Effect of section.—This section relates to burial grounds which have already become vested in local authorities or will become so vested on the termination of existing incumbencies. In this case transfer to the representative body is only to be as the result of agreement with the local authority concerned. Where a transfer does take place in pursuance of such an agreement it is enacted (sub-s. (2)) that s. 24 (3) and (4) of the 1914 Act, which contain certain provisions as to administration of burial grounds transferred to local authorities, shall cease to apply.

3. Maintenance of burial grounds.—(1) The representative body shall maintain in decent order—

(a) any burial ground which, having been transferred by the Welsh Commissioners as mentioned in the last foregoing section, is vested in the representative body in pursuance of an agreement made thereunder; and

(b) any burial ground which, in lieu of being so transferred, is vested in the representative body by section one of this Act. [78]

(2) Any liability under any other enactment or at common law for the repair or maintenance of a burial ground as such, and any liability under custom for the repair or maintenance of a particular burial ground, shall cease to be applicable to any such burial ground on its vesting as aforesaid.

[79]

(3) The representative body shall perform their duties under subsection (1) of this section in respect of any burial ground in such manner as to preserve for the enjoyment of the public the amenities of the locality in which the burial ground is situated. [80]

Effect of section.—This section places upon the representative body the obligation of maintaining in decent order any burial grounds transferred to them and of performing their duties in such a manner as to preserve public amenities. Sub-s. (2) consequently provides for the extinction of any existing liability in any other persons to maintain these grounds.

4. Rights of burial, etc.—(1) Except so far as may be necessary to comply with any trust or condition affecting any part of a burial ground which is a private benefaction within the meaning of the principal Act, no discrimination shall be made between the burial of members of the Church in Wales and of other persons in any burial ground vested in the representative body under section eight of the principal Act or by section one of this Act or in pursuance of an agreement made under section two of this Act; and the provisions of the Burial Laws Amendment Act, 1880, shall not apply so as to regulate burial in any such ground otherwise than according to the rites of the Church in Wales, save in so far as they are applied by the following provisions of this section. [81]

(2) Any right of burial in any such burial ground subject to which it vested or vests in the representative body as aforesaid shall be subject, in lieu of any conditions as to the giving of notice or payment of fees which would otherwise have regulated the exercise thereof, to such conditions as to those matters as may be prescribed by rules made with the approval of the Secretary of State by the representative body; and rules so made may also provide in the case of any such burial ground which is attached to a church for regulating the times at which services may be held in the burial ground so as not to interfere with services in the church and for preventing interference by persons attending funerals with the clergy or congregation attending the church. [82]

(3) Where a burial in any such burial ground is conducted otherwise than in accordance with the rites of the Church in Wales, the following enactments shall apply as if the burial were a burial in pursuance of a notice given under the Burial Laws Amendment Act, 1880, that is to say—

- (a) section ten of that Act (which relates to the registration of burials);
- (b) sections one to three of the Births and Deaths Registration Act, 1926 (which prohibit the disposal of a body except on a registrar's certificate or coroner's order and provide for matters connected therewith). [83]

Effect of section.—This section deals with rights of burial and specifically provides that there shall be no discrimination between the burial of members of the Church in Wales and of other persons, except in so far as there may be any trusts or conditions affecting a burial ground which is a private benefaction, a condition, for example, relating to a family vault.

5. Interpretation.—In this Act the following expressions have the meanings hereby respectively assigned to them—

“appointed day” means such day as the Secretary of State, after consultation with the Welsh Commissioners and the representative body, may by order appoint;

“representative body” means the representative body established under subsection (2) of section thirteen of the principal Act. [84]

6. Short title, citation and repeal.—(1) This Act may be cited as the Welsh Church (Burial Grounds) Act, 1945, and this Act and the Welsh Church Acts, 1914 to 1938, may be cited together as the Welsh Church Acts, 1914 to 1945. [85]

(2) Paragraph (b) of subsection (1) of section eight of the principal Act is hereby repealed. [86]

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION 3 OF THE DEFENCE (BURIAL, INQUESTS AND REGISTRATION OF DEATHS) REGULATIONS, 1942

S. R. & O., 1945, No. 506

May 9, 1945

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. In paragraph (1) of Regulation three of the Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942 (which provides for coroner's inquiries into deaths from war operations on reports from registrars of deaths and persons authorised by the Secretary of State) the words "or any person authorised by the Secretary of State to act under this Regulation" shall be omitted, and in paragraph (5) of the said Regulation the words "and, in a case where the report was made to him by some person other than that registrar, shall give notice to that person of the issue and transmission of the certificate" shall be omitted. [87]

2. For paragraph (2) of the said Regulation the following paragraphs shall be substituted—

"(2) On receiving such a report about any person, the coroner shall refer it to the Secretary of State and the Secretary of State may, if he thinks fit, direct the coroner to hold an inquiry into the matter.

(2A) Where such a direction is given to a coroner, he shall cause to be published in one or more local newspapers circulating in the district where the death of that person is believed to have occurred or in such other manner as he thinks suitable for eliciting information about that person, a notice stating—

- (a) the name and address of that person ;
- (b) that his death is believed to have occurred in the said district on such date, at such place and in such circumstances as may be specified in the notice ;
- (c) that the coroner proposes to inquire into the matter at such time and place as may be so specified ; and
- (d) that persons having information about the matter should send it to the coroner or attend at the time and place so specified."

[88]

3. In paragraph (3) of the said Regulation the words "or, if no such notice has been exhibited, at such time and place as he thinks fit" shall be omitted.

[89]

* * * * *

Note as to S. R. & O., 1945, No. 506.—Under Regulation 3 of the Defence (Burial, Inquests and Registration of Deaths) Regulations, 1942, coroners are required to hold inquiries into deaths resulting from war operations, on receiving reports from registrars of deaths and persons authorised by the Secretary of State. Article 1 of this Order deletes the reference to a person authorised by the Secretary of State. Article 2 of the Order limits the holding of inquiries to cases where the Secretary of State directs them to be held, and provides for an increased measure of publicity.

CENSUS

See, also, ELECTIONS

	PAGE		PAGE
ORDERS, CIRCULARS AND MEMORANDA :—		National Registration Amendment (No. 2) Regulations, 1945 —	28
National Registration Amendment Regulations, 1945 — — —	26	National Registration (War Workers) Regulations, 1945— <i>See</i> ELECTIONS.	

ORDERS, CIRCULARS AND MEMORANDA

THE NATIONAL REGISTRATION AMENDMENT REGULATIONS, 1945

*S. R. & O., 1945, No. 127**January 31, 1945*

104058.

In exercise of the powers conferred on us by the National Registration Act, 1939, as amended by regulation 20AB of the Defence (General) Regulations, 1939, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

1.—(1) These regulations may be cited as the National Registration Regulations, 1945, and shall be read as one with the National Registration Regulations, 1939 to 1943, and the said regulations and these regulations may be cited together as the National Registration Regulations, 1939 to 1945.

(2) In these regulations the expression “ the principal regulations ” means the National Registration Regulations, 1939, as amended by subsequent regulations including, unless the context otherwise requires, these regulations.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [90]

2.—(1) The following provisions shall be substituted for paragraph (1) of regulation 19 of the principal regulations :—

“ (1) A registered person shall, upon changing his place of residence, give notice of the change (in these regulations referred to as a ‘ notice of removal ’) :

Provided that—

(a) notice of removal shall not be required where—

(i) a person becomes an inmate, for the purpose of detention therein, of any civil prison, lock-up or other place of detention ; or

(ii) a person becomes an inmate of any institution within the meaning of the Mental Treatment Act, 1930, or any asylum, or any institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913, being an institution, certified house or approved home in respect of which there is in force a licence under the Food (Licensing of Establishments) Order, 1943, or is detained in a workhouse or hospital as a person of unsound mind ; or

(iii) a person becomes an inmate, for the purpose of undergoing treatment or observation therein, of any hospital, sanatorium, nursing home or convalescent home in respect of which there is in force a licence under the Food (Licensing of Establishments) Order, 1943 ; or

- (iv) a person leaves his registered address (in circumstances to which none of the foregoing provisions of this proviso applies) for a temporary absence within the United Kingdom from that address, being his usual place of residence to which he intends and expects to return, if and so long as no change of retailer for food rationing purposes is involved and arrangements made by or in respect of him secure that postal communications addressed to him at the registered address reach him without undue delay and that his actual address for the time being is ascertainable upon enquiry at the registered address by the local national registration officer for the local area in which the registered address is situated or by any other person authorised in that behalf by the Registrar-General; or
- (v) a person leaves the United Kingdom intending and expecting to return to his registered address in the United Kingdom, being his usual place of residence, within a period of two months; or
- (vi) a child leaves the United Kingdom; or
- (vii) a person changes his place of residence from a place outside the United Kingdom to another place outside the United Kingdom;

(b) in the case of a person of whom for the purposes of these regulations some other person is deemed to be in charge, the notice shall be given by that other person."

(2) Proviso (i) to paragraph (2) of the said regulation 19 is hereby revoked.

(3) In proviso (ii) to the said paragraph (2) for the words "proviso (a) (i)" there shall be substituted the words "proviso (a) (iv)". [91]

3.—(1) In paragraph (a) of regulation 19A of the principal regulations (which regulation makes provision as to the registered persons who may be recorded in the Register as usually resident outside the United Kingdom) for the words "the central national registration officer for England" there shall be substituted the words "the central national registration officer concerned."

(2) The following subparagraph shall be substituted for subparagraph (ii) of the said paragraph (a):—

"(ii) being a person who became a registered person on or after the first day of January, 1940, while in Northern Ireland and is registered as residing at a place of residence in Northern Ireland, and a person to whom the Residence in Northern Ireland Restriction) Order, 1942, applies, does not hold a permit under that order valid until the date of the termination of the order; or"

(3) For the words in the said regulation 19A from "Provided that a person" to the end of the regulation there shall be substituted the following provision:—

"Provided that a person shall cease to be so recorded if—

- (a) in a case where he is so recorded by virtue of the provisions of subparagraph (i) of paragraph (a) of this regulation, information is received as aforesaid that he has ceased to be a person to whom the provisions of that subparagraph apply; or
- (b) in a case where he is so recorded by virtue of the provisions of subparagraph (ii) of the said paragraph (a), either information is received as aforesaid that he has ceased to be a person to whom the provisions of that subparagraph apply or a declara-

tion is made by or in respect of him, upon the giving of notice of removal from a place of residence in Northern Ireland to a place of residence in Great Britain, to the effect that his usual place of residence is not outside Great Britain and Northern Ireland; or

- (c) being a person who is so recorded by virtue of a declaration made under paragraph (5) of regulation 19 of these regulations or a registration return, and whose registered address is in Great Britain or Northern Ireland, he attends at the office of the local national registration officer for the local area in which his registered address is situate and satisfies the officer that his usual place of residence is not outside Great Britain and Northern Ireland." [92]

4. At the end of paragraph (4) of regulation 28 of the principal regulations (which provides for the signature of an identity card by the person responsible for the custody thereof) there shall be inserted the words "Provided that nothing in this paragraph shall require a person mentioned in paragraphs 1, 2 or 3 of the first column of the Fourth Schedule to these regulations to sign an identity card in his custody which relates to a person mentioned in the second column of that Schedule." [93]

5.—(1) For subparagraph (a) of paragraph (1) of regulation 28A of the principal regulations (which paragraph specifies the classes of persons in respect of whom temporary identity cards may be issued) there shall be substituted the following subparagraph :—

"(a) persons who are usually resident outside Great Britain and Northern Ireland".

(2) Subparagraphs (dd) and (e) of the said paragraph (1) are hereby revoked. [94]

6. The following provision shall be inserted at the end of regulation 47 of the principal regulations :—

(4) In paragraph (1) of regulation 19 for the words "is detained in a workhouse or hospital as a person of unsound mind" there shall be substituted the words "is detained in a poorhouse or hospital as a lunatic." [95]

* * * * *

THE NATIONAL REGISTRATION AMENDMENT (NO. 2) REGULATIONS, 1945

S. R. & O., 1945, No. 1110

September 1, 1945

104422.

In exercise of the powers conferred on us by the National Registration Act, 1939, as amended by regulation 20AB of the Defence (General) Regulations, 1939, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

1.—(1) These regulations may be cited as the National Registration Amendment (No. 2) Regulations, 1945, and shall be read as one with, and shall be included among the regulations which may be cited together as, the National Registration Regulations, 1939 to 1945.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [96]

2. In regulation 37 of the National Registration Regulations, 1939, at the end of paragraph (1) there shall be inserted the following words :—

“or authorise a member of His Majesty’s naval, military or air forces to require a person to produce an identity card unless he has reasonable grounds for suspecting that the person is a deserter from His Majesty’s forces or is absent therefrom without leave, or is an escaped prisoner of war.” [97]

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COMPENSATION FOR LOSS OF OFFICE

See OFFICERS OF LOCAL AUTHORITIES.

DISEASE

ORDERS, CIRCULARS AND MEMO-				PAGE		PAGE
RANDA :—					Circular 130/45 : Cancer Act, 1939	30
Circular 100/45 : Tuberculosis				29	Circular 150/45 : Cancer Act, 1939	30

ORDERS, CIRCULARS AND MEMORANDA

Circular 100/45

County Councils, County Borough Councils, Common Council of the City of London, Metropolitan Borough Councils, Tuberculosis Joint Boards (England).

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
4th June, 1945.

SIR,

TUBERCULOSIS

I am directed by the Minister of Health to inform you that in the administration of National Health Insurance benefits certain insured persons are referred to Divisional Medical Officers of the Ministry for independent medical examination : and it has become apparent that in some instances, as a result of this examination, it is advisable for the Divisional Medical Officer, where a tuberculosis condition is diagnosed or suspected, to refer the case, for specialist investigation and report, to the Tuberculosis Officer of the area in which the person concerned is entitled to the facilities of the Tuberculosis Service. The Minister feels sure that Authorities will be glad to have any such case brought within the purview of their tuberculosis service in this way, and that he can rely on Tuberculosis Officers assisting his Divisional Medical Officers in examining and reporting on cases so referred. [98]

It is not expected that such cases will be numerous in any one area, and it will be left to the Tuberculosis Officer to arrange the time and place of examination as most convenient to him. [99]

The Divisional Medical Officer will communicate the findings of the Tuberculosis Officer to the insurance practitioner concerned in the case. [100]

A copy of this circular is being sent to the Medical Officer of Health. [101]

I am, Sir, etc.

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The Clerk of the County Council
or Joint Board
The Town Clerk.

Circular 130/45

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
24th July, 1945.

County Councils.
County Borough Councils.

SIR,

CANCER ACT, 1939

I am directed by the Minister of Health to refer to previous circulars in regard to the above Act and to say that he appreciates that the end of the war in Europe will not materially affect the difficulties that have led many Authorities under the Act to postpone the preparation of their arrangements. He feels, however, that some of those Authorities may now be considering what action they should take to carry out the intentions of the Act and that it may therefore be desirable to call attention to the terms of section 2 (8) of the Act and of the Circular 1813 issued from this Office on the 31st May, 1939. [102]

The general terms of that Circular indicate the intention that grants under the Act shall be payable in respect of the cost of such treatment only as is given under arrangements approved by the Minister, and the Minister understands that the Circular has been generally accepted by Local Authorities as a direction in the terms contemplated by section 2 (8) (a) of the Act. In order, however, to remove possible doubts, he hereby directs that expenditure incurred by any council in the provision of treatment for persons suffering from cancer shall, for the purposes of Section 2 of the Cancer Act, 1939, require his approval. [103]

The Minister does not propose at this stage to issue detailed directions under section 2 (8) (b) of the Act. [104]

I am, Sir, etc.

* * * * *

The Clerk of the Council
or the Town Clerk.

Circular 150/45

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
30th August, 1945.

County Councils.
County Borough Councils.

SIR,

CANCER ACT, 1939

1. I am directed by the Minister of Health to refer to Circular 108/44 dated 6th September, 1944, in which Local Authorities were informed of his decision to extend to the 31st March, 1946, the period during which the arrangements to be made by them under the Cancer Act, 1939, should be submitted. [105]

2. The termination of the war has not brought to an end the emergency conditions which have prevented the formulation of comprehensive arrangements under the Act by Local Authorities, and the Minister thinks it necessary further to extend the period during which complete arrangements under the Act should be submitted. He, therefore, now extends the period for a further twelve months, i.e., until 31st March, 1947. [106]

3. A copy of this circular is being sent to the Medical Officer of Health.
[107]

I am, Sir, etc.

* * * *

The Clerk of the Council,

or

The Town Clerk.

EDUCATION

See SPECIAL EDUCATION VOLUME.

EDUCATION AUTHORITY

See SPECIAL EDUCATION VOLUME.

EDUCATION FINANCE

See SPECIAL EDUCATION VOLUME.

ELECTIONS

STATUTES :—	PAGE		PAGE
Representation of the People Act, 1945	31	Treasury Order Prescribing Scale of Maximum Charges of Returning Officers at Parliamentary Elections in England and Wales	134
Local Elections (Service Abroad) Act, 1945	70	Electoral Registration (Local Elections) Regulations, 1945	139
Elections and Jurors Act, 1945	74	County and Borough Election Forms Regulations, 1945	141
ORDERS, CIRCULARS AND MEMORANDA :—		Urban District Councillors Election Rules, 1945	142
Electoral Registration Regulations, 1945	94	Rural District Councillors Election Rules, 1945	143
National Registration (War Workers) Regulations, 1945	115	House of Commons (Boundary Commissions) (Appointed Day) Order, 1945	148
Electoral Registration (No. 2) Regulations, 1945	116	Local Elections (Supplementary Provisions) (No. 2) Order, 1945	144
Local Elections (Supplementary Provisions) Order, 1945	127		
Registration Officers Order, 1945	131		
Returning Officers Order, 1945	132		

STATUTES

THE REPRESENTATION OF THE PEOPLE ACT, 1945

(8 & 9 Geo. 6, c. 5)

PRELIMINARY NOTE

This Act, which received the Royal Assent on February 15, 1945, has three main objects. The first is to extend the local government franchise to cover every person in this country who possesses a Parliamentary vote; the second is to enable local elections to be resumed on certain dates throughout England, Wales and Scotland; the third is to provide for the publication of registers of electors. The Act also

makes provision of a temporary nature with regard to registration, voting by post and other miscellaneous objects.

The qualifications entitling persons to be registered as local government electors are to be found in s. 3 of the Representation of the People Act, 1918, as substituted by s. 2 of the Representation of the People (Equal Franchise) Act, 1928. S. 1 of the present Act extends the class of persons so qualified so as to include any person who has, or but for his status as a peer would have, a qualification as a Parliamentary elector qualifying him to be registered in any area. This, it is estimated, will add a further 7,000,000 electors to the register. In itself, however, section 1 does not entitle to a local government vote any person paying rates in respect of a property which does not entitle him to a Parliamentary vote. A further provision is accordingly made (s. 15) whereby any such person shall be enabled to claim the local government vote for the area concerned.

Thus, any annual register to be prepared under Part III of the Act is to consist of two parts—the “general register” in which are to be registered electors qualified by s. 1; and the “ratepayers’ register”, in which are to be registered local government electors registered in respect of any other (i.e., non-Parliamentary) qualification.

The spouse’s qualification for both Parliamentary and local government elections is abolished by s. 2 of the Act; and amendments to the Act of 1918, consequent upon this abolition and upon the extension of the franchise, will be found in Schedule V.

The holding of local elections and the duty of preparing registers of local government electors and jurors’ books was suspended at the beginning of the war by the Local Elections and Register of Electors (Temporary Provisions) Act, 1939. That Act was originally limited to expire on December 31, 1940, but it was continued in force, with amendments, for successive periods of one year each by Acts passed specially for the purpose (*see note to section 4, post*). The last of these Acts, the Local Elections and Register of Electors (Temporary Provisions) Act, 1944, continued the 1939 Act for a further period of three months, which would in the normal course have ended on March 31, 1945.

The present Act, however, came into force before that expiry date was reached. By it, the Local Elections and Register of Electors (Temporary Provisions) Acts are, with some savings (*see Schedule V, post*) swept away, and provision is made for local elections to be resumed on specified dates. This is effected by enacting that for each of the various types of election the period between the last election and the appropriate specified date shall be treated as the relevant statutory period under the appropriate Act. For example, county councillors, by s. 8 of the Local Government Act, 1933, hold office for three years and the whole of them retire together at the same time. S. 4 of the present Act provides (*inter alia*) that the period beginning on the day on which county councillors were last elected at an ordinary election, and ending on March 8, 1946, shall be treated as if it were a period of three years, and that ordinary elections shall be held accordingly under the appropriate Act.

Other dates for the retirement of councillors and the consequent resumption of elections under the Act are:

TRIENNIAL ELECTIONS

Metropolitan borough councillors	November 1, 1945.
District councillors	April 15, 1946.
Parish councillors	April 15, 1946.
County aldermen	Annual meeting, 1946.
Borough or metropolitan aldermen	Annual meeting, 1945.

ANNUAL ELECTIONS OF ONE-THIRD OF COUNCILLORS

Borough councillors	November 1, 1945.
District councillors	April 15, 1946.

CITY OF LONDON

Common councilmen	December 21, 1946.
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SCOTLAND

County councillors	December 4, 1945.
District councillors	December 4, 1945.
Town councillors	November 6, 1945.

Special provision is made in all cases for dealing with casual vacancies which may occur before the dates given above.

Elective auditors are, by s. 6, to continue in office until the ordinary day of election of elective auditors in 1946. S. 7 modifies, for the purposes of the next election only, the qualifications normally needed for eligibility as a candidate at a local government election in England or Wales; and s. 11 makes similar modifications applicable to Scotland.

In Part III of the Act provision is made for the registers which are to be in force for Parliamentary and local government elections, though these provisions have now been amended by the Elections and Jurors Act, 1945, *post*.

A special register was, under s. 14, published on May 7, 1945, with reference to the qualifying date of January 31, for use only at Parliamentary elections. This register, which was in force at the time of the General Election in July, 1945, was available for any election initiated (i.e., initiated by the receipt of a writ in the case of a by-election or by a proclamation in the case of a general election) at any time up to September 30, 1945.

Provision is also made in Part III for the publication of an annual register on October 15 in each year so long as the National Registration Act, 1939, is in force. The first of these registers was published and came into force on October 15, 1945. This annual register consists of two parts, namely, the general register of parliamentary electors and local government electors registered in respect of a qualification under s. 1 of the Act, and the ratepayers' register consisting of local government electors registered in respect of any other qualification (s. 15). This annual register will remain in force for twelve months for local government elections, i.e., until the publication of the next annual register (s. 15 (3)). The Act provided (s. 13) that a Parliamentary election initiated between September 10 and December 31 in 1946 and subsequent years was to be based on the annual register coming into force on October 15 in each year, and that an election initiated between January 1 and September 9 in those years was to be based on a register prepared in pursuance of the 1943 Act, together with the business premises register comprised in the annual register for the preceding year. These provisions were changed by the Elections and Jurors Act, 1945, s. 1, *post*, which prescribes the use of the annual register for the whole year in respect of any election initiated on or after January 1, 1946.

Ss. 18 and 19 make provisions for business premises applications to be made by service voters, or on behalf of service voters by spouses or business managers, including partners. The time for registering prisoners of war on the Service register is extended so as to continue up to the latest practicable date before the election (s. 20); and provision is made for an appeal to the Courts from the determination by the registration officer of claims and objections made after publication of the electoral lists (s. 21).

Part IV of the Act contains temporary provisions as to voting. S. 25 makes provision for service voters, if serving in certain parts of the world, to record their votes by post at a General Election. S. 26 lays down the procedure for ensuring that no service voter obtains two votes by voting both by post and by proxy. Postal voting at university elections is dealt with by s. 27, and consequential provisions are made in s. 28, among them being that the counting of service postal votes shall begin not earlier than the twentieth day after the closing of the poll, in order to allow reasonable time for all such votes to be received from overseas. Ss. 29-31 are concerned with voting by proxy at university, parliamentary, or local government elections.

This Part of the Act, so far as it relates to voting by post at parliamentary elections, only applied, in accordance with s. 32 (1), to General Elections initiated between April 1, 1945, and December 31, 1945, unless a later date was prescribed by electoral registration regulations. These facilities have now been extended by s. 8 of the Elections and Jurors Act, 1945, *post*, to December 31, 1946, or such later date as may be prescribed by electoral registration regulations.

MISCELLANEOUS.—Miscellaneous provisions of the Act to be noted are: S. 3. By this section, officers who hold war-time commissions in the Indian, Burmese or Colonial defence forces, and officers of the Indian Army Reserve of Officers who,

apart from their war service, would be living in this country, qualify for registration. Other ranks are already qualified under the 1943 Act (*supra*), and therefore do not fall under the present section. In addition, the section contains provisions for the making of applications by certain extra classes of war workers abroad for inclusion within the service register (sub-s. (2)). S. 33. The House of Commons (Redistribution of Seats) Act, 1944, s. 3, provided that Boundary Commissions should begin their work on the general review of constituencies when regulations had been made under s. 12 (3) of the Act of 1943 (*supra*) for the periodical publication of electoral lists. S. 33 of the present Act makes the date for the beginning of these enquiries October 15, 1946, or, subject to an affirmative resolution of both Houses, a date a year earlier or a year later, as may be prescribed. The House of Commons (Boundary Commissions) (Appointed Day) Order, 1945, has made the date October 15, 1945. S. 39. The Act does not apply in respect of the election of members to serve in the Parliament of Northern Ireland, or of members of any local authority in Northern Ireland. The Northern Ireland Parliament has power to deal with the registration of electors for such elections, but the Act contains provisions dealing with the position, if that Parliament wishes to make use of the machinery under this Act. [108]

ARRANGEMENT OF SECTIONS

PART I

FRANCHISE

Section	Page
1. Extension of local government franchise	35
2. Abolition of spouse's qualification	35
3. Members of forces and war workers abroad	36

PART II

RESUMPTION OF LOCAL ELECTIONS

4. Triennial elections	37
5. Annual elections of one-third of councillors	38
6. Elective auditors	40
7. Qualification for election and holding office	40
8. City of London	41
9. County and district council elections in Scotland	42
10. Town council elections in Scotland	42
11. Qualification for membership of councils in Scotland	43
12. Power to make supplementary orders as to local elections	44

PART III

TEMPORARY PROVISIONS AS TO REGISTRATION

13. Registers which are to be in force for local government and parliamentary elections	45
14. May 1945 register	46
15. Annual register under this Act	47
16. <i>Repealed</i>	47
17. <i>Repealed</i>	48
18. Business premises applications by service voters	48
19. Business premises applications on behalf of service voters by spouse or business manager	49
20. Extension of time for registration of prisoners of war	50
21. Preparation of registers and appeals from registration officer	50
22. <i>Repealed</i>	51
23. Transitional provisions	51
24. Application and adaptation of enactments	52

PART IV

TEMPORARY PROVISIONS AS TO VOTING

Section	Page
25. Postal voting by service voters at parliamentary elections other than university elections	52
26. Provisions for superseding proxy votes by postal votes	53
27. Postal voting by service voters at university elections	54
28. Consequential provisions	55
29. Extension of persons who may be appointed proxies for service voters at university elections	56
30. Amendment of the Act of 1943 as to civilian proxies at parliamentary elections	57
31. Proxy voting by service voters at local government election	57
32. Application and interpretation of Part IV	58

PART V

MISCELLANEOUS AND GENERAL

33. Amendment as to redistribution of seats	58
34. Provision as to superannuation rights of contributory employees	59
35. Temporary provisions as to expenses of registration	60
36. Permanent provisions as to expenses of registration	61
37. Approval of electoral registration regulations	62
38. Interpretation	62
39. Application to Northern Ireland	62
40. Short title, citation and repeal	64

SCHEDULES :

First Schedule.—Forms of service declaration, etc.	64
Second Schedule.—Registration as local government elector	66
Third Schedule.— <i>Repealed</i>	67
Fourth Schedule.—Adaptation of enactments	67
Fifth Schedule.—Enactments repealed	69

An Act to amend the law relating to parliamentary and local government franchises, and the registration of parliamentary and local government electors, to provide for the resumption of local elections, and otherwise to amend the law relating to parliamentary and local government elections, including the redistribution of seats at parliamentary elections. [15th February, 1945.]

PART I

FRANCHISE

1. Extension of local government franchise.—Subject to the provisions of Part III of this Act, the class of persons qualified as local government electors for any local government area shall be extended so as to include any person who has, or but for an incapacity arising from his status as a peer would have, a qualification as a parliamentary elector qualifying him to be registered in that area. [109]

Object of the section.—This section extends the local government franchise to all men and women who possess the Parliamentary vote. See Preliminary Note, *ante*.

Part III of this Act.—See p. 45, *post*. This Part of the Act makes temporary provisions as to registration. In particular, s. 15 provides that persons may be registered as ratepayers where they are qualified as such though not entitled to a Parliamentary vote.

2. Abolition of spouse's qualification.—No person shall be qualified as a parliamentary or local government elector for any constituency or local government area unless that person is qualified as an elector for that con-

stituency or area otherwise than as the husband or wife of a person so qualified :

Provided that this section shall not affect—

- (a) the right of any person to be registered for and vote at any parliamentary election initiated (within the meaning of the Act of 1943) before the date of the commencement of this Act ; or
- (b) the qualification of any person for any office held by that person immediately before that date, so as to vacate or require that person to vacate the office. [110]

Spouse's qualification.—For the spouse's qualification hereby abolished, see ss. 1, 3 of the Representation of the People Act, 1918, as substituted by ss. 1, 2 of the Representation of the People (Equal Franchise) Act, 1928.

Act of 1943.—This means the Parliamentary Electors (War-Time Registration) Act, 1943 (Part I of the Parliament (Elections and Meeting) Act, 1943), as amended by the Parliamentary Electors (War-Time Registration) Act, 1944. See s. 38, *post*.

Initiated.—The date on which an election is to be taken to be initiated is, in the case of a general election, the date of His Majesty's proclamation summoning the new Parliament, and, in the case of a by-election, the date on which the writ is received (Parliamentary Electors (War-Time Registration) Act, 1943, s. 2).

3. Members of forces and war workers abroad.—(1) For the purposes of the Act of 1943, the meaning of the expression "member of the forces" shall be extended so as to include any member (whether male or female) of any of His Majesty's naval, military or air forces raised elsewhere than in the United Kingdom or a Dominion, who either—

- (a) on the thirty-first day of August, nineteen hundred and thirty-nine, was not a member of any such force ; or
- (b) being on that date a member of a reserve or auxiliary force raised as aforesaid has since that date been called up for actual service ;

and who, in either case, is not for the time being released from actual service for an indefinite period :

Provided that electoral registration regulations may provide that this subsection shall not apply to any force specified in the regulations as being equivalent to the Home Guard.

In this subsection the expression "Dominion" means a Dominion within the meaning of the Statute of Westminster, 1931, and includes any territory administered by His Majesty's government in such a Dominion. [111]

(2) Subsection (1) of section eleven of the Act of 1943 (which provides for conferring on persons registered in the National Register as persons engaged in war work abroad rights similar to those conferred by that Act on seamen) shall apply also, as it applies to a person so registered, to a person not registered in the National Register who is certified—

- (a) by a commissioned officer in His Majesty's forces to have been a member of the forces but to have ceased (whether before or after the passing of this Act) to be such a member at a time when he was outside the United Kingdom ; and
- (b) on behalf of any government department, by an officer of that department or of an organisation authorised for the purpose of this provision by that department, to be engaged in work of national importance outside the United Kingdom (whether ashore or afloat) in connection with any war in which His Majesty may be engaged. [112]

(3) The provisions of the First Schedule to this Act shall have effect in relation to the forms to be used to enable persons who are members of the forces by virtue of subsection (1) of this section and such persons as are referred to in the last foregoing subsection to be registered as parliamentary electors and for the appointment of proxies by such persons. [113]

Object of the section.—See Preliminary Note, *ante*.

Act of 1943.—See s. 38, *post*.

“Member of the Forces”.—Under s. 22 of the Parliamentary Electors (War-Time Registration) Act, 1943, a “member of the forces” means a person who, being a member of (a) any of the armed forces of the Crown raised in the United Kingdom (b) the Women’s Royal Naval Service (c) the Queen Alexandra’s Royal Naval Nursing Service (d) any other organisation established under the control of the Admiralty, Army Council or Air Council and raised in the United Kingdom, is, or would if he were in the United Kingdom be, by virtue of such membership for the time being exempt under National Registration regulations from registration in the National Register.

Statute of Westminster, 1931.—“Dominion”, by s. 1 thereof means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State, or Newfoundland.

PART II

RESUMPTION OF LOCAL ELECTIONS

4. Triennial elections.—(1) For the purposes of any provision of the appropriate Act limiting the term of office of county councillors, metropolitan borough councillors, district councillors or parish councillors to three years, and requiring them to retire together in every third year, the period beginning on the day on which the councillors elected at the ordinary election held last before the commencement of this Act came into office and ending—

- (a) in the case of county councillors, on the eighth day of March, nineteen hundred and forty-six ;
- (b) in the case of metropolitan borough councillors, on the first day of November, nineteen hundred and forty-six ; and
- (c) in the case of district councillors and parish councillors, on the fifteenth day of April, nineteen hundred and forty-six ;

shall be treated as if it were a period of three years ; and ordinary elections of councillors shall be held accordingly under the appropriate Act. [114]

(2) For the purpose of any provision of the appropriate Act limiting the term of office of aldermen to six years, or requiring one half as near as may be of the whole number of aldermen to retire in every third year, the period between the ordinary election of aldermen held last before the commencement of this Act and—

- (a) in the case of county aldermen, the annual meeting of the county council in the year nineteen hundred and forty-six ; or
- (b) in the case of aldermen of a borough or metropolitan borough, the annual meeting of the borough council in the year nineteen hundred and forty-five ;

shall be treated as if it were a period of three years ; and ordinary elections of aldermen shall be held accordingly under the appropriate Act. [115]

(3) If there is a vacancy among the councillors of any council before their term of office expires under subsection (1) of this section, then—

- (a) if the vacancy occurs more than six months before the expiration of that term or exists at the commencement of this Act, no election shall be held to fill the vacancy under the appropriate Act, but a person to fill the vacancy shall be elected as soon as conveniently may be by the council ;
- (b) if the vacancy occurs within the said six months, it shall remain unfilled until the first ordinary election required to be held under subsection (1) of this section so, however, that, in the event of a vacancy or simultaneous vacancies occurring among the councillors within the said six months whereby the total number of unfilled vacancies among the councillors exceeds one-third of the whole number of councillors, that vacancy or those vacancies shall be filled in manner provided by the last foregoing paragraph. [116]

(4) For the purpose of any provision of the appropriate Act providing that a person elected under the Act to fill a casual vacancy shall hold office until the date upon which the person in whose place he is elected would regularly have retired and shall then retire, a councillor elected by the council under the last foregoing subsection, and a councillor or alderman elected under the proviso to section one of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, shall be deemed to have been elected to fill a casual vacancy under the appropriate Act. [117]

(5) For the purpose of this section, the expression "appropriate Act" means, in relation to a councillor or alderman of the London County Council or a metropolitan borough council, the London Government Act, 1939, and in relation to any other councillor or alderman, the Local Government Act, 1933. [118]

Suspension of Local Elections.—The holding of local elections and the duty of preparing registers of local government electors and jurors' books was suspended at the beginning of the war by the Local Elections and Register of Electors (Temporary Provisions) Act, 1939. That Act was originally limited to expire on December 31, 1940, but it was continued in force, with amendments, for successive periods of one year each by the Local Elections and Register of Electors (Temporary Provisions) Act, 1940, the Local Elections and Register of Electors (Temporary Provisions) Act, 1941, the Local Elections and Register of Electors (Temporary Provisions) Act, 1942, and the Local Elections and Register of Electors (Temporary Provisions) Act, 1943. Finally, the 1939 Act was continued for a further period of three months, which would in the normal course have ended on March 31, 1945, by the Local Elections and Register of Electors (Temporary Provisions) Act, 1944.

The present Act repeals the whole Act of 1939 except s. 9 thereof and s. 3 as it applies for the purposes of s. 9. It also repeals all the other Acts mentioned above with certain savings which are set out in the third column to Schedule V, *post*.

Object of the section.—Sub-s. (1) of the section deals with members of those councils who normally all retire together every third year. These are county councillors (Local Government Act, 1933, s. 8); metropolitan borough councillors (London Government Act, 1939, s. 23); district councillors if so ordered by a county council (Local Government Act, 1933, s. 35); and parish councillors (*ibid.*, s. 50). The subsection provides that in all these cases the period between the last ordinary election and the dates which are set out in paragraphs (a), (b), and (c) shall be treated as a period of three years, with the consequent requirement that elections of councillors to come into office on the dates mentioned will require to be held under the procedure of the appropriate Act.

Sub-s. (2) similarly lays down procedure for the retirement and consequent election of aldermen of counties and boroughs. Sub-ss. (3) and (4) make provisions for the filling of casual vacancies.

5. Annual elections of one-third of councillors.—(1) Any provision of the Local Government Act, 1933, limiting the term of office of councillors of a borough or district to three years, and requiring one-third of the whole number of the councillors thereof, or of each ward thereof, as the case may be, to retire in every year (hereinafter referred to as a "rotation in thirds provision") shall have effect subject to the following provisions of this section. [119]

(2) The following councillors shall retire on the appropriate date, that is to say—

- (a) councillors elected at the ordinary election held in the year nineteen hundred and thirty-six (in the case of a borough) or nineteen hundred and thirty-seven (in the case of a district) and any councillor subsequently elected under the Local Government Act, 1933, to fill a casual vacancy in the office of any councillor elected at the said ordinary election;
- (b) any councillor elected by the council to fill a casual vacancy whether so elected under the proviso to section one of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, or under subsection (5) of this section;

and an ordinary election shall be held to fill their places in like manner as an ordinary election would under the Local Government Act, 1933, have been held to fill the places of one-third of the whole number of councillors. [120]

(3) The councillors to be included in the one-third of the whole number of councillors of the borough or district or, in the case of a borough or urban district divided into wards, of each ward thereof, who are required by the

rotation in thirds provision to retire on the first and second anniversaries of the appropriate date shall be determined as follows :—

- (a) as between two or more councillors who have been in office without re-election for different periods, a councillor who has been so in office for a longer period shall retire before a councillor who has been so in office for a shorter period ;
- (b) as between two or more councillors who have been so in office for the same period—
 - (i) where their election was contested, a councillor elected by a smaller number of votes shall retire before a councillor elected by a larger number of votes ;
 - (ii) where their election was not contested, or where their election was contested and they received the same number of votes, the order of their retirement shall be determined by lots drawn at such meeting of the council as the council may determine, the drawing being conducted under the direction of the person presiding at the meeting ;
- (c) in the case of councillors elected to come into office on the appropriate date, the foregoing paragraphs shall apply to them all alike (including councillors elected to fill a casual vacancy), but for the purpose of those paragraphs any councillor elected after that date to fill a casual vacancy in the office of a councillor elected on that date, shall be treated as having himself been elected on that date and as having been in office since that date without re-election :

Provided that, where under subsection (5) of section thirty-five of the Local Government Act, 1933, the order of retirement of the councillors of a rural district council is determined in accordance with directions given by the county council, the order of retirement of the councillors of that council shall also be so determined for the purpose of this subsection. [121]

(4) No election of a councillor of any council to which a rotation in thirds provision applies, whether an ordinary election or an election to fill a casual vacancy, shall be held under the Local Government Act, 1933, before the election required to be held under subsection (2) of this section, and the term of office of any such councillor holding office at the commencement of this Act shall be extended until he is required to retire by this section. [122]

(5) If there is a vacancy among the councillors of any council to which a rotation in thirds provision applies before the appropriate date, then—

- (a) if the vacancy occurs more than six months before that date or exists at the commencement of this Act, a person to fill the vacancy shall be elected as soon as conveniently may be by the council ;
- (b) if the vacancy occurs within the said six months, it shall remain unfilled until the ordinary election required to be held under subsection (2) of this section, and shall be filled at that election in addition to the other places then to be filled, so, however, that in the event of a vacancy or simultaneous vacancies occurring among the councillors within the said six months whereby the total number of unfilled vacancies among the councillors exceeds one-third of the whole number of councillors, that vacancy or those vacancies shall be filled in manner provided by the last foregoing paragraph. [123]

(6) During his term of office the mayor of a borough, and the chairman and vice-chairman of a district council, shall continue to be a member of the borough council or district council, as the case may be, notwithstanding the provisions of this section as to the retirement of councillors. [124]

(7) Nothing in this section shall affect any power of His Majesty to create new boroughs, or any power to make Orders in Council or orders conferred

by the following provisions of the Local Government Act, 1933, that is to say—

- (a) section twenty-five (which relates to the division of a borough into wards and the alteration of the number of councillors or wards or boundaries);
- (b) the proviso to subsection (3) of section thirty-five (which provides for the rotation in thirds provision being replaced as respects a district council by the provisions of that Act requiring the retirement of the whole council in every third year);
- (c) section thirty-seven (which relates to the division of an urban district into wards);
- (d) subsection (2) of section thirty-eight (which relates to the number of rural district councillors to be elected by the several rural parishes);
- (e) Part VI (which relates to the alteration of areas);

and any such Order in Council or order may exclude or vary the provisions of this section to the like extent as it may exclude or vary the rotation in thirds provision. [125]

(8) In this section the expression “appropriate date” means—

- (a) in relation to a borough, the first day of November, nineteen hundred and forty-five; and
- (b) in relation to a district, the fifteenth day of April, nineteen hundred and forty-six;

and in the application of this section to the councillors of a district council, references to one-third thereof shall be construed as references to one-third thereof as near as may be. [126]

Object of the section.—This section sets out the procedure to be followed in those cases where one-third of a council retires every year (see *infra*). It provides that all co-opted councillors shall retire on the date when elections are resumed, together with those councillors elected in 1936 in the case of boroughs and in 1937 in the case of district councils. In subsequent years one-third of those councillors will retire automatically, and that one-third will be those longest in office, and in the case of councillors who have equal terms of office, the councillor elected on the smaller number of votes will go out before the councillor elected on the larger number of votes.

Appropriate date.—In relation to a borough, November 1, 1945; in relation to a district, April 15, 1946; see sub-s. (8).

Local Government Act, 1933.—The provisions therein limiting the term of office of borough or district councillors to three years and requiring one-third of such councillors to retire annually will be found in ss. 23, 35.

6. Elective auditors.—No election of elective auditors of a borough shall be held in the year nineteen hundred and forty-five, and all such auditors in office at the commencement of this Act shall continue in office until the ordinary day of election of elective auditors in the year nineteen hundred and forty-six:

Provided that the foregoing provisions shall not prevent the vacation of the office of an elective auditor before the said day otherwise than by effluxion of time; and, in the event of that office being vacant before the said day, a person to fill the vacancy, whose term of office shall expire on the said day, shall be elected as soon as conveniently may be by the council of the borough.

[127]

Elective auditors.—For the time and mode of election of elective auditors, see s. 238 of the Local Government Act, 1933.

7. Qualification for election and holding office.—(1) A person holding office as a member of any local authority within the meaning of the Local Government Act, 1933, or the London Government Act, 1939, on the nomination day for the ordinary election of councillors held next after the commencement of this Act shall, notwithstanding that he does not possess the qualifications required by section fifty-seven of the Local Government Act, 1933, or section thirty-one of the London Government Act, 1939, as the case

may be, be qualified to be elected councillor at that election, or chairman (in the case of a county, district or parish), mayor (in the case of a borough or metropolitan borough) or alderman (in the case of a county or borough or metropolitan borough) at the election of a chairman, mayor or alderman next following the said nomination day, and to hold office as such for the term for which he may then be elected. [128]

(2) A person holding office as a member of any such local authority immediately before the fifteenth day of October, nineteen hundred and forty-five (on which date the register of local government electors prepared under the Act of 1918 in the year nineteen hundred and thirty-nine is, under the following provisions of this Act, to cease to be in force for the purpose of determining a person's qualification for any office) shall, if he is then qualified to hold that office as being a local government elector, continue to be so qualified so long as he continues to hold it without re-election, notwithstanding that, on that register ceasing to be in force as aforesaid, he no longer possesses the qualifications required by the said sections. [129]

(3) Any person being, on the day of nomination for the election of elective auditors in the year nineteen hundred and forty-six, the elective auditor of a borough shall be qualified to be elected elective auditor of that borough at that election, notwithstanding that he is not qualified to be a councillor of the borough. [130]

(4) For the purposes of section fifty-eight of the Local Government Act, 1933, and section thirty-two of the London Government Act, 1939 (which provide that a person ceasing to hold any office to which he is elected under the Act shall, unless he is not qualified or is disqualified, be eligible for re-election), a person elected to any office under the proviso to section one of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, or under this Part of this Act shall be deemed to have been elected under the Local Government Act, 1933, or the London Government Act, 1939, as the case may be. [131]

Local Government Act, 1933, ss. 57, 58.—The qualifications required for holding office as a member of a local authority are set out in the first of these sections, and are that the candidate for office must be of full age and British nationality, and must either (a) be a local government elector for the area of the local authority, or (b) own freehold or leasehold land within the area of the local authority, or (c) have resided in the area of the local authority during the whole of the twelve months preceding the day of election, or (d) in the case of a member of a parish council, have resided in the parish or within three miles of it for the whole of the preceding twelve months or since the twenty-fifth day of March in the year preceding the year of election.

The present section removes these necessary qualifications for the purpose of the next election, and any person holding office as a member of a local authority on the next nomination day will be eligible as councillor, or as chairman, mayor or alderman, as the case may be, notwithstanding that the 1939 register (see *infra*) may in the meantime expire.

London Government Act, 1939, ss. 31, 32.—The first of these sections corresponds to s. 57 of the Local Government Act, 1933 (*supra*), omitting the reference to the qualification of parish councillors.

Act of 1918.—This means the Representation of the People Act, 1918, as amended by any subsequent enactment; see s. 38, *post*. The register of local government electors prepared under s. 11 of the Act of 1918 on November 15, 1939, is to remain in force until October 15, 1945; see s. 23, *post*.

Elective auditor.—See note to s. 6, *ante*.

8. City of London.—(1) No election of common councilmen in the City of London (other than an election to fill a casual vacancy in accordance with the following provisions of this section) shall be held before the twenty-first day of December, nineteen hundred and forty-six, and any common councilman in office at the commencement of this Act or elected in accordance with the following provisions of this section to fill a casual vacancy shall continue in office until that day and shall then retire :

Provided that nothing in this subsection shall prevent—

- (a) the vacation of the office of a common councilman otherwise than by effluxion of time ; or
- (b) the re-election of a common councilman retiring thereunder. [132]

(2) If at the commencement of this Act there is a vacancy in the office of a common councilman, or if any such vacancy occurs before the twenty-first day of September, nineteen hundred and forty-six, the Common Council shall as soon as conveniently may be fill the vacancy by electing a person possessing the qualifications necessary for election to the office and not being subject to any disqualification for holding the office :

Provided that section five of the local Act 12 & 13 Vict. cap. xciv—

- (a) in so far as it requires, as a qualification for election as a common councilman for any ward in the City of London, the occupation of premises in the said ward rates at the amount specified in the said section shall not apply to any election under this subsection ; and
- (b) in so far as it requires, as a qualification for such election, that the person to be elected should be registered in the parliamentary register of electors with respect to premises in the said ward, shall be taken as requiring that a person to be elected under this subsection either should have been so registered in the register which came into force in the year nineteen hundred and thirty-nine or should be so registered in the register which is for the time being in force, or deemed to be in force, under the following provisions of this Act. [133]

(3) For the purpose of elections of aldermen and any other purpose except elections of common councilmen, the lists of persons in the several wards of the City of London who are entitled to vote under the City of London Municipal Elections Amendment Act, 1867, being the lists made out and signed on the third day of December, nineteen hundred and forty, in accordance with section five of the said Act, shall remain in force until the third day of December, nineteen hundred and forty-six ; and no further lists shall be made out under the said section five so as to come into force before that day. [134]

Object of the section.—This section postpones the resumption of elections of common councilmen in the City of London until December 21, 1946. The whole of the common council normally retires on December 21 (St. Thomas's Day) in each year.

City of London Municipal Elections Amendment Act, 1867.—30 & 31 Vict. c. i.

9. County and district council elections in Scotland.—(1) For the purposes of any enactment requiring the election of members of county and district councils in Scotland to take place every third year, and of any reference in any enactment to a triennial election of county councillors, the period of seven years ending on the first Tuesday in December in the year nineteen hundred and forty-five shall be treated as if it were three years and accordingly elections of members of such councils shall be held in the year nineteen hundred and forty-five and in every third year thereafter. [135]

(2) The term of office of any such councillor in office at the commencement of this Act shall be extended until the first Tuesday in December, nineteen hundred and forty-five :

Provided that nothing in this subsection shall operate to continue in office a county councillor representing a burgh after he ceases to be a town councillor. [136]

Object of the section.—This section provides for the resumption of county and district council elections in Scotland on December 4, 1945 ; and the term of office of any county or district councillor in office at the commencement of this Act is accordingly extended until that date.

10. Town council elections in Scotland.—(1) The provisions of the Town Councils (Scotland) Acts, 1900 to 1923, and of any local Act with regard to the retiral and election of town councillors for burghs in Scotland shall have effect subject to the following provisions of this section. [137]

(2) For the purpose of any enactment requiring one-third of the town

councillors for a burgh or for each ward in a burgh to retire in each year, the period of seven years ending on the first Tuesday of November, nineteen hundred and forty-five, shall be treated as if it were one year, and the term of office and date of retiral of town councillors elected by the electors and in office at the commencement of this Act shall be determined accordingly.

[138]

(3) Any town councillor elected by the council before the issue in the year nineteen hundred and forty-five of the election notice shall continue in office until the first Tuesday of November, nineteen hundred and forty-five, and shall then retire and his place shall be filled by the electors and he shall be reckoned as one of the one-third of the councillors required to retire at the said date if, and only if, he was elected to fill a place occupied at any time since the issue of the election notice in the year nineteen hundred and thirty-eight by a councillor who was elected by the electors and would have been required under the last foregoing subsection to retire on the aforesaid day :

Provided that nothing in this subsection shall require any person holding the office of provost or of honorary treasurer to retire prior to the expiry of his term of office as provost or honorary treasurer. [139]

(4) A vacancy among the town councillors of any burgh which occurs between the commencement of this Act and the issue in the year nineteen hundred and forty-five of the election notice and which, whether by virtue of a resolution of the town council or otherwise, is required by or under the provisions of any local Act to be filled by the electors otherwise than at the annual election shall be filled by the town council. [140]

(5) In the application of this section to a burgh in which the annual retiral and election of councillors takes place, by virtue of a determination under section seven of the Town Councils (Scotland) Act, 1903, on a day other than the first Tuesday of November the foregoing provisions of this section shall have effect subject to the following modifications :—

(a) for any reference to the first Tuesday of November there shall be substituted a reference to that other day ;

(b) in the case where the election notice is issued in the months of January or February, for references to the years nineteen hundred and thirty-eight and nineteen hundred and forty-five there shall be substituted respectively references to the years nineteen hundred and thirty-nine and nineteen hundred and forty-six. [141]

(6) In this section the expression “ election notice ” means the notice issued in pursuance of section forty-two of the Town Councils (Scotland) Act, 1900, or of any similar provision in a local Act. [142]

Object of the section.—This section provides for the resumption of town council elections in Scotland on November 6, 1945, and the term of office of town councillors is accordingly continued until that date.

Town Councils (Scotland) Act, 1900.—63 & 64 Vict. c. 49.

Town Councils (Scotland) Act, 1903.—3 Edw. 7, c. 34.

Town Councils (Scotland) Act, 1923.—13 & 14 Geo. 5, c. 41.

11. Qualification for membership of councils in Scotland.—(1) A person holding office as a member of a county, town or district council in Scotland on the day when the notice of election is next issued after the commencement of this Act, shall, unless he is subject to any disqualification, be deemed to be duly qualified to be elected at the election to which that notice relates, and to be, a member of that council for the term for which he may then be elected, notwithstanding that he does not possess the qualification for such election and membership prescribed by the enactments relating thereto. [143]

(2) A person holding office as a member of any such council immediately before the fifteenth day of October, nineteen hundred and forty-five (on which date the register of local government electors prepared under the

Act of 1918 in the year nineteen hundred and thirty-nine is, under the following provisions of this Act, to cease to be in force for the purpose of determining a person's qualification for any office) shall, if he is then qualified to hold that office as being a local government elector, continue to be so qualified so long as he continues to hold it without re-election, notwithstanding that, on that register ceasing to be in force as aforesaid, he no longer possesses the qualifications required by the said enactments. [144]

(3) In this section the expression "notice of election" means the notice issued in pursuance of section forty-two of the Town Councils (Scotland) Act, 1900, or of any similar provision in a local Act, relating to any burgh or of any provision applying the said section forty-two to elections of county and district councillors, and the expression "disqualification" means in relation to a town council any such disqualification as is mentioned in paragraphs (3) or (4) of section thirteen of the said Act of 1900. [145]

Act of 1918.—This means the Representation of the People Act, 1918, as amended by any subsequent enactment; see s. 38, *post*. The register of local government electors prepared under s. 11 of that Act on November 15, 1939, is, by s. 23 of the present Act, *post*, to remain in force until October 15, 1945.

Town Councils (Scotland) Act, 1900.—63 & 64 Vict. c. 49.

12. Power to make supplementary orders as to local elections.—(1) Where it appears to the Secretary of State that by reason of special circumstances affecting any local authority within the meaning of the Local Government Act, 1933, or the London Government Act, 1939, the provisions of sections four and five of this Act are, in relation to that authority or some part of the members thereof, either inapplicable or inadequate without some addition or modification, he may by order make such provision as appears to him to accord with the principles of those sections and to be necessary or expedient, in consequence of the passing of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, and the Acts amending and continuing that Act and of the repeal of those Acts by this Act, for the purpose of securing that the authority shall be, and be deemed always to have been, duly constituted. [146]

(2) The Secretary of State may also by order make such provision as appears to him to be necessary or expedient for the purpose of giving effect to the said sections and, in particular, for the holding of any election required thereby to be held. [147]

(3) Any provision of any order made under this section may apply either generally to any class of local authority or to any particular local authority. [148]

(4) Any order made under this section shall have effect notwithstanding anything in any enactment (including an enactment contained in this Act), or anything in any instrument made by virtue of any such enactment. [149]

(5) Any order made under this section shall be laid before Parliament as soon as may be after it is made, but section one of the Rules Publication Act, 1893, shall not apply to any order so made. [150]

(6) If either House of Parliament, within the period of twenty-eight days beginning with the date on which any such order is laid before it, resolves that the order be annulled, the order shall thereupon become void, but without prejudice to the validity of anything previously done thereunder or to the making of a new order. [151]

(7) In reckoning any such period of twenty-eight days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [152]

(8) In the application of this section to Scotland for any reference to a local authority there shall be substituted a reference to a county, town or district council and for any reference to sections four and five of this Act there shall be substituted a reference to sections nine and ten of this Act. [153]

Local Government Act, 1933.—By s. 305 thereof, “local authority” means the council of a county, county borough, county district or rural parish.

London Government Act, 1939.—By s. 206 thereof, “local authority” means the county council or a borough council.

Local Elections and Register of Electors (Temporary Provisions) Act, 1939, and the Acts amending and continuing that Act.—See notes to s. 4, *ante*.

Supplementary Orders.—Under this section the Secretary of State has made the Local Elections (Supplementary Provisions) Order, 1945, *post*, as amended by the Local Elections (Supplementary Provisions) (No. 2) Order, 1945, *post*.

PART III

TEMPORARY PROVISIONS AS TO REGISTRATION

13. Registers which are to be in force for local government and parliamentary elections.—(1) The register of electors to be in force for elections held before the coming into force of a new register prepared under section eleven of the Act of 1918, shall (subject to the provision made by this Part of this Act for certain contingencies) be as follows:—

(a) for local government elections, on or after their resumption under Part II of this Act, the register shall be a register (to be called the “annual register”) prepared under this Part of this Act so as to come into force on the fifteenth day of October in each year;

(b) for parliamentary elections the register shall be—

(i) for any election initiated before the first day of April, nineteen hundred and forty-five, a register specially prepared for the election under the Act of 1943;

(ii) for any election initiated during the period beginning with the said first day of April and ending with the thirtieth day of September, nineteen hundred and forty-five, a register (to be called the “May 1945 register”) prepared under this Part of this Act so as to come into force on the seventh day of May, nineteen hundred and forty-five;

(iii) for any election initiated during the period beginning with the first day of October and ending with the thirty-first day of December in the year nineteen hundred and forty-five. . . . the annual register which comes into force in that year.

[154]

(iv) *Repealed.*

(2) Nothing in this Part of this Act shall apply to the register of parliamentary electors for any university constituency. [155]

Act of 1918.—This means the Representation of the People Act, 1918, as amended by any subsequent enactment; see s. 38, *post*. The register of local government electors prepared under s. 11 of the 1918 Act in November, 1939, remained in force until October 15, 1945, when the first of the new annual registers under the present Act came into force.

Local Government Elections.—Provided that the National Registration Act, 1939, is in force on the relevant date, a register of local government electors and parliamentary electors is to be prepared and to come into force on October 15 of each year (see s. 15, *post*) and local government elections will be held under this register, which will remain in force until the publication of the next annual register or of a register prepared under s. 11 of the 1918 Act.

Parliamentary Elections.—Elections which were initiated before April 1, 1945, were conducted under specially prepared registers made under the Parliamentary Electors (War-Time Registration) Act, 1943 (sub-s. (1) (b) (i)). Elections initiated between April 1 and September 30, 1945 (which of course included last year's General Election) were based on the “May 1945 register” (see s. 14, *infra*) (sub-s. (1) (b) (ii)). Elections initiated between October 1 and December 31, 1945, were based on the annual register for that year (sub-s. (1) (b) (iii)). The latter part of sub-s. (1) (b) (iii), which provided that elections initiated between September 10 and December 31 in any year subsequent to 1945 were to be based on the annual register for that year, and the whole of sub-s. (1) (b) (iv), which provided that elections initiated between January 1 and September 9 in 1946 and subsequent years were to be based on a register consisting of a civilian residence register and a service register specially prepared for the election under the 1943 Act, together with the business premises register comprised in the annual register for the preceding year, have been repealed by the Elections and Jurors Act, 1945, *post*. Elections initiated on or after January 1, 1946, are now to be based on the current annual register, until a register is prepared under s. 11 of the 1918 Act.

Initiated.—For the meaning of “initiated,” see notes to s. 2, *ante*.

14. May 1945 register.—(1) Subject as hereinafter provided, there shall in the year nineteen hundred and forty-five be prepared in each constituency a register of parliamentary electors in accordance with the Act of 1943 as if a general election had been initiated on the first day of March in that year, and the register so prepared shall be the May 1945 register for that constituency :
Provided that—

- (a) if a general election is in fact initiated before the end of the said month of March, no further proceedings shall be taken with respect to the preparation of a May 1945 register for any constituency ; and
- (b) if a by-election is initiated in the said month of March in any constituency, no further proceedings shall be taken with respect to the preparation of a civilian residence or business premises register to be comprised in the May 1945 register for that constituency. [156]

(2) If a general election is initiated before the end of the month of March, nineteen hundred and forty-five, the register in force for any parliamentary election initiated during the period beginning with the first day of April and ending with the thirtieth day of September, nineteen hundred and forty-five, shall, instead of being the register specified in the last foregoing section—

- (a) in the case of an election initiated not later than the ninth day of September, be a register specially prepared for the election under the Act of 1943 ; and
- (b) in the case of an election initiated after the said ninth day of September, be the annual register which comes into force in that year. [157]

(3) If in any constituency a by-election is initiated in the said month of March, the civilian residence register and the business premises register prepared and published under the Act of 1943 for that election shall be treated for the purposes of this Part of this Act as if they had been duly published as part of the May 1945 register for that constituency. [158]

(4) Applications to be registered in the business premises register to be comprised in the May 1945 register—

- (a) shall be made so as to be received by the registration officer before the beginning of the said month of March ;
- (b) shall not be invalid by reason only of being made before the commencement of this Act ; and
- (c) subject to the provisions of this Act as to making applications on a form of service declaration, or by other persons on behalf of members of the forces and seamen, and to any electoral registration regulations extending those provisions to war workers abroad, shall be made in the form prescribed by the Electoral Registration Regulations, 1944, so much of that form as relates to applications by or on behalf of the husband or wife of the occupier of business premises being disregarded, whether filled in or not.

Any application to be so registered which is made as aforesaid shall be treated as having been made also for the purposes of any election initiated in the said month of March, and subject as aforesaid no person shall be registered in the business premises register for any election initiated during that month otherwise than in pursuance of such an application. [159]

(5) For the purposes of the service register to be comprised in the May 1945 register, any service declaration or notification that a service declaration has been cancelled, if received by a registration officer on or before such date as may be prescribed by electoral registration regulations, not being later

than the last day of the said month of March, shall be of the same effect for the purpose of determining the right of the declarant to be registered as if received by the registration officer before the qualifying date, and subsection (5) of section eight of the Act of 1943 shall have effect accordingly. [160]

Object of the section.—The object of this section was to provide a register, based on National Registration at January 31, 1945, for use principally at the General Election which, at the time the present Act was before Parliament, was known to be likely to take place at some date in 1945. That General Election has since taken place. It was initiated on June 15 by Royal Proclamation, and the register in force was therefore the May 1945 register. This register continued in force for parliamentary elections initiated up to September 30, 1945 (see s. 13, *ante*).

As no General Election was initiated before March 31, 1945, paragraph (a) of sub-s. (1), and sub-s. (2), are of no effect.

Act of 1943.—See s. 38, *post*.

Initiated.—For the meaning of "initiated," see notes to s. 2, *ante*.

15. Annual register under this Act.—(1) If in the year nineteen hundred and forty-five or any subsequent year the National Registration Act, 1939, is in force on the relevant date, there shall be prepared a register of local government electors and parliamentary electors which shall be published and come into force on the fifteenth day of October in that year, and that register shall be the annual register. [161]

(2) The annual register shall consist of two parts, namely—

(a) a part (to be called the "general register") in which shall be registered parliamentary electors and local government electors registered in respect of a qualification conferred by section one of this Act and which shall accordingly consist of a civilian residence register, a business premises register and a service register; and

(b) a part (to be called the "ratepayers register") in which shall be registered local government electors registered in respect of any other qualification. [162]

(3) The annual register, so far as it is a register of local government electors, shall be prepared in accordance with the Second Schedule to this Act; and, save as hereinafter expressly provided, shall remain in force as such until the publication of the next annual register or of a register prepared under section eleven of the Act of 1918. [163]

(4) The general register comprised in the annual register, so far as it is a register of parliamentary electors, shall be prepared as if it were a register specially prepared under the Act of 1943 for a parliamentary election initiated on the first day of August. [164]

(5) In this section the expression "the relevant date" means the qualifying date for the general register comprised in the annual register, that is to say—

(a) in any year in which section one of the Parliamentary Electors (War-Time Registration) Act, 1944, is in force on the first day of August, the thirtieth day of June in that year; and

(b) in any other year, the thirty-first day of July in that year. [165]

General note.—This register is now to be used for any parliamentary election initiated on or after January 1, 1946 (see Elections and Jurors Act, 1945, s. 1, *post*).

Ratepayers' Register.—This provision is made so that any person who is paying rates in respect of a property which does not entitle him to a parliamentary vote shall be enabled to claim the local government vote for the area concerned.

Act of 1918.—See s. 38, *post*.

Act of 1943.—See s. 38, *post*.

Parliamentary Electors (War-Time Registration) Act, 1944.—S. 1 (1) (a) thereof amends s. 1 (4) of the Act of 1943 (*supra*), so as to make the date by reference to which a person's qualification for registration in the parliamentary register is to be ascertained the last day of the month next but one before (instead of next before) that in which the election is initiated.

Initiated.—For the meaning of "initiated," see notes to s. 2, *ante*.

16. Modifications as to civilian residence and service registers in certain contingencies.—[166] [*Repealed by the Elections and Jurors Act, 1945, s. 1, and First Schedule, post.*]

17. Modifications as to business premises register.—[167] [*Repealed by the Elections and Jurors Act, 1945, s. 1, and First Schedule, post.*]

18. Business premises applications by service voters.—(1) A person qualified to be registered in the business premises register to be comprised—

- (a) in the register for any parliamentary election initiated in March nineteen hundred and forty-five;
- (b) in the May 1945 register; or
- (c) in the annual register;

may, if at the time of his application he is a member of the forces or a seaman, apply to be so registered on the form applicable in his case for the making of a service declaration, giving the address of the business premises occupied by him on the qualifying date instead of the address at which he was, or but for his service as a member of the forces or a seaman would have been, residing. [168]

(2) Any person registered in the business premises register in pursuance of an application made as aforesaid shall not be entitled to vote in person in respect of that registration, but shall be entered in the absent voters list and entitled to appoint a proxy, and shall be entitled to vote by post or by proxy accordingly. [169]

(3) The provisions of the Second Schedule to the Act of 1943 shall apply in relation to the appointment and voting of proxies under this section:

Provided that any such appointment and any cancellation of such an appointment by any person shall be made on the form applicable in his case for the appointment of a proxy to vote for him at an election for which he is registered in the service register or for the cancellation of any such appointment, as the case may be, but, if the form requires him to give the address at which he is, or but for his service as a member of the forces or a seaman would be, residing, he shall give instead the address of the business premises as given in his application under this section to be registered in the business premises register. [170]

(4) Any such application, appointment or cancellation shall be marked with the words "business premises application" or words to the like effect, and any form which may be used under this section for making any such application, appointment or cancellation shall be taken to relate to the business premises register if, but only if, it is so marked. [171]

(5) Where, within the time allowed for the receipt of applications to be registered in any such business premises register, the registration officer or other officer concerned receives a form of service declaration duly filled in and the declaration is—

- (a) attested as a service declaration;
- (b) marked as aforesaid; and
- (c) dated on or after the qualifying date by reference to which that register is to be prepared;

then it shall be conclusively presumed that the person signing the form was at the time of his application a member of the forces or a seaman and it shall be presumed until the contrary is shown that he is entitled to be registered in that business premises register in respect of the premises referred to in the form. [172]

(6) Paragraph (b) of subsection (1) of section fifteen of the Act of 1943 (which penalises persons improperly attesting service declarations) shall apply to an application to be registered in the business premises register made on a form of service declaration as if it were a service declaration. [173]

(7) In the application of this section to persons disqualified as peers from registration as parliamentary electors—

- (a) paragraphs (a) and (b) of subsection (1) shall not apply ; and
- (b) subsections (2) and (8) shall have effect subject to any modifications prescribed by electoral registration regulations made under the following provisions of this Act for conferring on those persons rights as to the appointment of a proxy to vote at local government elections. [174]

Act of 1943.—See s. 38, *post*. Schedule II thereof makes provisions for the appointment and voting of proxies. S. 15 (1) (b) thereof imposes penalties upon persons improperly attesting service declarations ; the penalties are, on summary conviction, a fine not exceeding £50 and/or imprisonment not exceeding three months, or on conviction on indictment, imprisonment for a term not exceeding two years.

May 1945 Register.—See s. 14, *ante*.

19. Business premises applications on behalf of service voters by spouse or business manager.—(1) An application for the registration of any person in the business premises register to be comprised in the May 1945 register or the annual register, may, if at the time of the application that person is a member of the forces or a seaman, be made on that person's behalf by that person's spouse, or if that person is not married or is separated from the spouse, or the spouse is a member of the forces, a seaman or a war worker abroad, by the manager of that person's business. [175]

(2) Any person registered in the business premises register in pursuance of an application made under this section shall not be entitled to vote in person in respect of that registration, but shall be entered in the absent voters list and entitled to appoint a proxy, and shall be entitled to vote by post or by proxy accordingly :

Provided that no ballot paper shall be sent to a person so registered for the purpose of voting by post except in pursuance of a request or application made by that person. [176]

(3) Subsection (3) and (so far as it relates to appointments of proxies or cancellations of such appointments) subsection (4) of section eighteen of this Act shall apply to the appointment and voting of proxies under this section and to the cancellation of such appointments as they apply to the appointment and voting of proxies under that section and the cancellation of such appointments. [177]

(4) Any application made under this section for a person to be registered in the May 1945 register shall be made in accordance with subsection (4) of section fourteen of this Act, and shall be treated accordingly as having been made also for the purposes of any election initiated in the month of March, nineteen hundred and forty-five :

Provided that the person making the application shall insert therein a declaration—

- (a) that he or she is the spouse of the person on whose behalf it is made, or that he or she is the manager of that person's business and either that person is not married or the spouse is a member of the forces, a seaman or a war worker abroad or is separated from that person ; and
- (b) that that person is at the time of the application a member of the forces or a seaman. [178]

(5) In this section references to the manager of a person's business shall be construed, in relation to any application made under this section on that person's behalf, as referring to the person who at the time of the application is carrying on on that person's behalf or as his partner the business, profession or trade of that person in respect of which the application is made ; and the expression " war worker abroad " means a person registered or qualified to

be registered in the service register for any constituency otherwise than as a member of the forces or a seaman. [179]

(6) Subparagraph (i) of paragraph (a) of subsection (1) of section fifteen of the Act of 1943 (which penalises persons making false statements in applications to be registered in the business premises register) shall apply in relation to an application under this section as if it were made by the person signing it on his own behalf. [180]

(7) In the application of this section to persons disqualified as peers from registration as parliamentary electors—

- (a) the reference in subsection (1) thereof to the May 1945 register and subsection (4) thereof shall not apply; and
- (b) subsection (2) thereof and subsection (3) of section eighteen of this Act as applied by subsection (3) of this section shall have effect subject to any modifications prescribed by electoral registration regulations made under the following provisions of this Act for conferring on those persons rights as to the appointment of a proxy to vote at local government elections. [181]

May 1945 Register.—See s. 14, *ante*.

Act of 1943, s. 15 (1) (a).—See note to s. 18, *ante*.

20. Extension of time for registering prisoners of war.—(1) For the purposes of any service register to be prepared under the Act of 1943 or this Act, any service declaration made by a member of the forces, if accompanied by a certificate signed by a commissioned officer of His Majesty's forces and stating that the declarant—

- (a) had been a prisoner of war, and made the declaration on ceasing to be a prisoner of war; and
- (b) told the officer signing the certificate that he had not, before becoming a prisoner of war, made a service declaration;

shall, subject to the following provisions of this section, be of the same effect, whenever it is received by the registration officer, for the purpose of determining the right of the declarant to be registered as a parliamentary elector, as if received by the registration officer before the qualifying date by reference to which the register is prepared, and subsection (5) of section eight of the Act of 1943 shall have effect accordingly. [182]

(2) No person shall be entitled to be registered for the purposes of any election by virtue of a service declaration to which the foregoing subsection applies, unless the declaration is received by the registration officer four clear days at least before the day fixed for nomination. [183]

(3) Electoral registration regulations shall provide for the publication, after the date of initiation of a parliamentary election, as a supplement to the service register in force for that election (whether published before or after that date) of a list of any persons to be registered therein under this section by virtue of service declarations received by the registration officer too late for the inclusion of their names in the register as originally published. [184]

Object of the section.—The object of this section is to extend the time available for the registering of prisoners of war. In the Bill as originally drafted no declaration under sub-s. (1) would have entitled a prisoner of war to registration unless received by the registration officer before the initiation of the election. It will now be good if received four clear days before nomination day.

Act of 1943.—See s. 38, *post*. See s. 8 thereof for provisions as to the service register contained therein.

Electoral registration regulations.—As to the registration of persons who have been prisoners of war, see Regulation 34 of the Electoral Registration Regulations, 1945 (S. R. & O., 1945, No. 271).

21. Preparation of registers and appeals from registration officer.—(1) Electoral registration regulations shall provide for securing the compilation and publication by registration officers of the registers required by this Part

of this Act, and may apply any of the registration rules set out in the First Schedule to the Act of 1918 subject to any modifications made by the regulations. [185]

(2) Without prejudice to the generality of the foregoing subsection, electoral registration regulations shall provide—

- (a) in the case of the May 1945 register, for the publication, not later than the end of March in that year, of lists of persons who appear to the registration officer to be qualified to be registered in the civilian residence and business premises registers; and
- (b) in the case of the annual register, for the publication, not later than the end of August, of lists of persons who appear to the registration officer to be qualified to be registered in any part of that register; and
- (c) for the determination by the registration officer of claims and objections with respect to the said lists;

and from any such determination of a registration officer an appeal shall lie in accordance with the provisions of section fourteen of the Act of 1918 subject to any modifications made by the regulations:

Provided that paragraph (b) of this subsection shall not apply to the service register to be comprised in the annual register prepared in the year nineteen hundred and forty-five. [186]

(3) Notwithstanding anything in subsection (4) of section twelve of the Act of 1943, an appeal shall also lie as aforesaid from any determination by a registration officer of a claim or objection made with respect to any list published in pursuance of subsection (2) of that section for an election initiated after the twenty-eighth day of February, nineteen hundred and forty-five:

Provided that if a general election is initiated before the end of March in that year (so that no May 1945 register comes into force under this Act) a reference to the thirty-first day of July shall be substituted for the reference in this subsection to the twenty-eighth day of February, except as respects any appeal pending when the general election is initiated. [187]

Electoral registration regulations.—See the Electoral Registration Regulations, 1945 Part III, as amended by the Electoral Registration (No. 2) Regulations, 1945.

Act of 1918, Schedule I.—Representation of the People Act, 1918, Schedule I. S. 14 relates to appeals.

May 1945 Register.—See s. 14, ante.

Annual Register.—See s. 15, ante.

Act of 1943.—See s. 38, post.

General election.—See s. 38, post. No general election having been initiated before March 31, 1945, the proviso to sub-s. (3) is of no effect.

22. Adjustment of statutory time limits in connection with parliamentary elections.—[188] [*Repealed by the Elections and Jurors Act, 1945, s. 1, and First Schedule, post.*]

23. Transitional provisions.—(1) For the purpose of determining whether a person is qualified for any office by virtue of his being a local government elector, the register of local government electors prepared under section eleven of the Act of 1918 which came into force on the fifteenth day of November, nineteen hundred and thirty-nine, shall remain in force until the fifteenth day of October, nineteen hundred and forty-five.

Rule 28 of the First Schedule to the Act of 1918 (which requires registration officers to supply copies of the register to persons applying therefor) shall not apply to the said register. [189]

(2) No register of parliamentary or local government electors shall be prepared under the said section eleven in any year in which the National Registration Act, 1939, is in force after the thirty-first day of March, and no person shall by virtue of any enactment or rule of law be required to perform

any duty solely with a view to the preparation of a register which by virtue of this subsection is not to be prepared. [190]

(3) *Repealed.* [191]

Act of 1918.—Representation of the People Act, 1918, as amended; see s. 38, *post*. The register of local government electors prepared in November, 1939, under s. 11 thereof is to remain in force until October 15, 1945, when the first of the annual registers comes into force (see s. 15, *ante*).

Sub-s. (3).—This subsection, which provided that on the expiration of the National Registration Act, 1939, the transitional provisions set out in the Third Schedule to the 1945 Act should have effect, has been repealed by the Elections and Jurors Act, 1945, s. 16, *post*, which substituted a new Schedule, *post*.

24. Application and adaptation of enactments.—(1) The provisions of Part I of the Fourth Schedule to this Act shall have effect for the purpose of adapting the Act of 1943 to the provisions of this Part of this Act, so far as it relates to parliamentary elections, and the provisions of Part II of that Schedule shall have effect for the purpose of adapting other enactments to the provisions of the Act of 1943 and this Part of this Act. [192]

(2) Subsection (2) of section twenty-one of and the Third Schedule to the Act of 1943 (which contain provisions for adapting enactments to the provisions of that Act) shall cease to have effect:

Provided that paragraphs 1, 2 and 3 of the said Third Schedule (which adapt references to the parliamentary register, parliamentary electors, etc.) shall continue in force until the seventh day of May, nineteen hundred and forty-five, or if no May 1945 register comes into force on that day, until the following fifteenth day of October, and shall apply also as respects any parliamentary election initiated while they are in force. [193]

Act of 1943.—See s. 38, *post*.

May 1945 Register.—See s. 14, *ante*.

PART IV

TEMPORARY PROVISIONS AS TO VOTING

25. Postal voting by service voters at parliamentary elections other than university elections.—(1) Subject to the provisions of this Part of this Act, any person who is registered as a parliamentary elector for any constituency—

(a) in the service register; or

(b) in pursuance of an application under this Act made by that person on a form of declaration of residence, or on that person's behalf by some other person, in the business premises register;

shall, if he has made an application in that behalf in accordance with electoral registration regulations, be entitled to vote by post in the same way, subject to any prescribed modifications, as an absent voter at any general election for which that register is in force, being an election to which this Part of this Act applies. [194]

(2) Every application to vote by post under this section shall give an address (hereinafter referred to as a "voting address") to which the applicant wishes a ballot paper to be sent, but no person shall be entitled to make such an application while he is outside the postal voting areas or to apply for a ballot paper to be sent outside those areas:

Provided that no such application shall be invalidated by reason of any contravention of this subsection, but a returning officer shall not be obliged to issue a ballot paper in pursuance of such an application, if the voting address given is known to him to be outside the postal voting areas. [195]

(3) A person who has made an application to vote by post under this section shall not be entitled to vote in person at any election for which the application is in force. [196]

(4) The making of such an application by any person shall not prevent or invalidate the appointment of a proxy to vote on his behalf, and (subject

as hereinafter provided) ballot papers may be issued to, and a vote may be cast by, both him and his proxy on his behalf. [197]

(5) Any person who has made such an application may, in accordance with electoral registration regulations, supersede it by a fresh application, giving a new voting address, or cancel it by notice to the registration officer concerned. [198]

(6) Unless superseded or cancelled as aforesaid any such application shall continue in force for the purposes of any general election to which this Part of this Act applies so long as the person making the application is registered or entitled to be registered as a parliamentary elector for the constituency by virtue of the same declaration of residence or, in the case of a person registered in the business premises register, so long as that register remains in force. [199]

(7) Any such application or notice cancelling such an application shall be disregarded for the purpose of any election unless received by the registration officer four clear days at least before the day fixed for nomination. [200]

(8) Subsection (3) of section nine of the Act of 1948 (which entitles members of the forces to vote by post provided a ballot paper is not sent to them out of the United Kingdom) shall not apply in relation to a general election to which this Part of this Act applies. [201]

Act of 1943.—See s. 38, post.

26. Provisions for superseding proxy votes by postal votes.—Provision shall be made by electoral registration regulations for securing that, where a ballot paper is issued to any person registered in the service register or the business premises register for the purpose of voting by post under this Part of this Act and, when the absent voters' ballot boxes are opened for the purpose of checking the envelopes therein and their contents, the declaration of identity sent to that person with that ballot paper is found to have been returned and is not rejected by the returning officer, any vote cast on that person's behalf by his proxy shall not be counted; and for that purpose the regulations shall in particular provide,—

- (a) for placing, on the declaration of identity to be sent to any person so registered for the purpose of voting by post under this Part of this Act, his number in the relevant register, and for rejecting any such declaration of identity if it is found that that number has been defaced or removed before it is returned to the returning officer;
- (b) for marking on a copy of the relevant register, from the numbers so placed on declarations of identity returned and not rejected, the names of the persons whose proxies' votes are under this section not to be counted;
- (c) for securing that ballot papers issued for the purpose of voting as proxy for a person registered in the service register or the business premises register shall be of a different colour or otherwise readily distinguishable from other ballot papers;
- (d) for enabling any ballot paper issued for the purpose of voting as proxy for a person so registered to be identified after it has been marked (but so far as practicable without disclosing how it has been marked) by reference to the number of that person in the relevant register, for rejecting any such ballot paper if either—
 - (i) it is not identifiable in manner provided by the regulations; or
 - (ii) it is found, on comparison with the copy of the relevant register marked in accordance with paragraph (b) of this section, to be a paper which is not to be counted;

and for rendering not so identifiable any such ballot paper which is not so rejected;

- (e) for making the said comparison immediately after the number of the ballot papers in the ballot boxes has been counted and recorded in accordance with paragraph 34 of the First Schedule to the Ballot Act, 1872, and (unless that comparison is not completed on the day on which the counting of the votes begins) for the adjournment of the counting on the completion of the comparison until the next following day which is not a Sunday, Christmas Day or Good Friday, or a day which under the Bank Holidays Act, 1871, as amended by any subsequent enactment (including Defence Regulations) is a Bank Holiday in the place where the votes are being counted;
- (f) for any other matters which appear to the Secretary of State to be incidental to or consequential on the foregoing provisions of this section, including such amendments of the First Schedule to the Ballot Act, 1872, and any other enactment as appear to him to be necessary for carrying those provisions into effect. [202]

Electorat registration regulations.—See Regulations 27, 28 of the Electoral Registration Regulations, 1945 (S. R. & O., 1945, No. 271).

27. Postal voting by service voters at university elections.—(1) Where the returning officer for any university constituency receives from a person registered as an elector for that constituency an application for a voting paper to be sent to him for the purpose of voting by post and the application is accompanied either—

- (a) by a declaration in the same form and attested in the same manner and giving the same particulars as a service declaration, except that it shall give particulars of the university constituency instead of particulars of the place at which the declarant is or would be residing; or
- (b) such a certificate as is referred to in subsection (2) of section eleven of the Act of 1943 (which relates to persons registered in the National Register as engaged on war work abroad); or
- (c) such certificates as are referred to in subsection (2) of section three of this Act;

and the said declaration purports to be signed by, or the said certificate or certificates purport to relate to, the person making the application, then, notwithstanding anything in the Act of 1918, that person shall be entitled at any general election to which this Part of this Act applies to have a voting paper sent to him at the address given in the application. [203]

(2) No person shall be entitled to make an application for a voting paper to be sent under the foregoing subsection while he is outside the postal voting areas or to apply for a voting paper to be sent outside those areas under that subsection:

Provided that no such application shall be invalidated by reason of any contravention of this subsection but the returning officer shall not be obliged to send a voting paper in pursuance of such an application, if the address given is known to him to be outside the postal voting areas. [204]

(3) Any application for a voting paper to be so sent may be superseded by a fresh application giving a new address and accompanied by the appropriate declaration, certificate or certificates, or may be cancelled by notice to the returning officer, but subject to the foregoing provisions of this subsection any such application shall continue in force for the purpose of any general election to which this Part of this Act applies. [205]

(4) Any such application or notice shall be disregarded for the purpose of any election unless received by the returning officer four clear days at least before the day fixed for nomination. [206]

(5) A person shall not be entitled to vote in person at any election at which he is entitled to have a voting paper sent to him under subsection (1) of this section. [207]

(6) The making of such an application by any person shall not prevent or invalidate the appointment of a proxy to vote on his behalf or the casting of a vote by his proxy at any election, but if at a general election to which this Part of this Act applies a voting paper is duly returned by him so as to be received by the returning officer before the day on which the counting of the votes is to begin, any vote cast by the proxy on his behalf shall be void. [208]

(7) Electoral registration regulations shall make provision for giving effect to the last foregoing subsection, and shall for that purpose in particular provide—

- (a) for marking, on any copy of the register to be used at any general election to which this Part of this Act applies for checking voting papers before they are counted, the name of any person entitled to have a voting paper sent to him under subsection (1) of this section at that election ;
- (b) for rejecting any vote cast on his behalf by his proxy at that election if it is found when the voting papers are checked that he himself has returned a voting paper with the declarations thereon duly filled in ;
- (c) for any other matters which appear to the Secretary of State to be incidental to or consequential on the foregoing provisions of this subsection, including such amendments of the Fifth Schedule to the Act of 1918 and any other enactment (including any Order in Council made under that Act) as appear to him to be necessary for carrying those provisions into effect. [209]

(8) In the application of this section to the combined Scottish University constituency any reference to the returning officer shall be construed, in relation to any elector, as a reference to the registrar of the University in the register for which that elector is registered. [210]

Act of 1943.—See s. 38, post.

Act of 1918.—See s. 38, post.

28. Consequential provisions.—(1) For the purpose of enabling the rights of voting by post conferred by this Part of this Act (including the rights conferred in relation to university elections) to be effectively exercised, the following provisions shall have effect :—

- (a) the counting of the votes at any general election to which this Part of this Act applies shall, instead of beginning as soon as possible after the close of the poll, begin not earlier than nine o'clock in the morning of the twentieth day thereafter, and any vote cast by post under this Part of this Act shall, if received before the beginning of the said twentieth day, be as effective and be dealt with as nearly as may be in the same way as if received before the close of the poll ;
- (b) the time appointed for the meeting of the new Parliament after any such election shall be any time not less than forty clear days, instead of any time not less than twenty clear days, after the Proclamation summoning the Parliament or, if the time for holding the election is extended under section two of the Act of 1943 so as to allow for the preparation of a register, after the coming into force of the register ;

- (c) provision shall be made by electoral registration regulations for entitling any candidate at any such election to send to each person entitled to vote by post in the constituency under this Part of this Act any document containing matter relating to the election only (subject to such limits of size and weight as may be prescribed) by having it enclosed in the same cover as the ballot paper or voting paper to be sent to that person ;
- (d) The arrangements made by a government department under section ten of the Act of 1943, and under that section as extended by electoral registration regulations to war workers abroad, shall include arrangements for securing that (so far as circumstances permit) any person on whom rights are conferred under this Part of this Act with respect to voting by post shall—
- (i) have an effective opportunity of exercising those rights, and in such manner as not to disclose the way in which he has voted or intends to vote ;
 - (ii) receive such instructions as to the effect of this Part of this Act and any regulations made under or by virtue of this Part of this Act, and such other assistance as may be reasonably sufficient in connection with the exercise of those rights. [211]

(2) For the purpose of paragraph (c) of the foregoing subsection, candidates who are, under paragraph (4) of Part V of the First Schedule to the Corrupt and Illegal Practices Prevention Act, 1883, deemed to be joint candidates at an election shall be treated as a single candidate. [212]

(3) The right of sending election matter to persons entitled to vote by post under this Part of this Act which is conferred by the said paragraph (c) shall, in relation to such persons, be in lieu of the right to send election matter post free conferred by subsection (2) of section thirty-three of the Act of 1918. [213]

Not less than twenty clear days.—This is the normal time limit laid down under s. 21 (3) of the Representation of the People Act, 1918.

Act of 1943.—See s. 38, *post*.

Electoral registration regulations.—See Regulation 32 of the Electoral Registration Regulations, 1945, for provisions as to the sending of election addresses to service voters ; and see Regulation 11 of the same Regulations as to arrangements for the exercise of rights by war workers abroad.

Corrupt and Illegal Practices Prevention Act, 1883, Schedule I, Part V (4).—The paragraph provides that in certain circumstances—e.g., where the same election agent is appointed by two or more candidates—candidates at an election shall be deemed to be joint candidates.

Act of 1918.—See s. 38, *post*.

29. Extension of persons who may be appointed proxies for service voters at university elections.—(1) Notwithstanding anything in the Third Schedule to the Act of 1918 as it applies to university constituencies by virtue of section thirty-six of that Act, any person may be appointed proxy to vote at a university election, and may vote as proxy at such an election, on behalf of a member of the forces, seaman or other person if—

- (a) he could be appointed to vote, and could vote, on his behalf at that election if the constituency were not a university constituency ; and
- (b) his proxy paper is issued to him in pursuance of an application made in accordance with section eighteen of the Act of 1943 (which enlarges the right of members of the forces and seamen while that Act is in force to appoint a proxy in a university constituency and contains provisions for identifying their applications) or with that section as extended by electoral registration regulations to war workers abroad. [214]

(2) Any proxy paper issued before the commencement of this Act shall be deemed to have been validly issued if it would have been validly issued by virtue of the foregoing subsection, had that subsection then been in force. [215]

Act of 1918.—See s. 38, *post*.

Act of 1943.—See s. 38, *post*.

Electoral registration regulations.—See Regulation 10 of the Electoral Registration Regulations, 1945 (S. R. & O., 1945, No. 271).

30. Amendment of the Act of 1943 as to civilian proxies at parliamentary elections.—Where electoral registration regulations provide that an application by any person for his name to be entered in the absent voters list is to be made as respects a prescribed period, a person whose name is so entered shall not be entitled to appoint a proxy otherwise than for that period or for so much thereof as remains unexpired at the time of the appointment (without prejudice however to his power to cancel the appointment); and accordingly, in subparagraph (b) of paragraph one of the First Schedule to the Act of 1943 for the words “at any election initiated during that period or any part thereof specified in the application”, there shall be substituted the words “at an election for which that list will be used”. [216]

Electoral registration regulations.—As to the absent voters list see Regulation 19 of the Electoral Registration Regulations, 1944 (S. R. & O., 1944, No. 900), and Regulation 20 of the Electoral Registration Regulations, 1945 (S. R. & O., 1945, No. 271).

Act of 1943.—See s. 38, *post*.

31. Proxy voting by service voters at local government elections.—(1) Subject to the provisions of this section, any person who is registered under this Act as a local government elector for any local government area—

(a) in the service register; or

(b) in pursuance of an application under this Act made by that person on a form of declaration of residence, or on that person's behalf by some other person, in the business premises register;

shall be entitled to vote by proxy at any local government election for that area. [217]

(2) A person shall not be entitled to vote by proxy under this section except by the proxy appointed by him for the purpose of parliamentary elections by virtue of the declaration of residence or application in pursuance of which he is registered in the said register:

Provided that the foregoing provisions of this subsection shall not apply to persons disqualified as peers from registration as parliamentary electors, but electoral registration regulations shall provide for conferring on them as nearly as may be the like rights as to the appointment of a proxy, and the cancellation of any such appointment, for the purposes of this section as if they were not so disqualified. [218]

(3) A person may vote in person at a local government election, notwithstanding that he is entitled to vote by proxy at that election, but only if he applies for a ballot paper before a ballot paper has been issued to the proxy, and in that event the appointment of the proxy shall be void as respects that election.

Nothing in paragraph (b) of subsection (1) of section eighty-two of the Local Government Act, 1933, or in paragraph (b) of subsection (1) of section fifty-six of the London Government Act, 1939, shall be taken to penalise a person who, after a proxy appointed by him has voted under this section, applies for a ballot paper for the purpose of voting in person. [219]

(4) Paragraphs 12, 15 (except subparagraphs (a) and (d) thereof), 16 and 17 of the Second Schedule to the Act of 1943 (which relates to the voting of proxies at parliamentary elections) shall apply to the voting of proxies at local government elections under this section. [220]

(5) The Second Schedule to the Local Government Act, 1933, or the London Government Act, 1939, as the case may be, and any other enactment regulating the holding of local government elections, including any provisions imposing penalties in connection with voting at those elections, shall apply to persons voting as proxies under this section as they apply to electors, subject however to the provisions of this section and to such modifications as may be prescribed for the purpose of adapting them to voting by proxy. [221]

(6) In the application of this section to Scotland—

(a) for any reference to paragraph (b) of subsection (1) of section eighty-two of the Local Government Act, 1933, there shall be substituted a reference to section twenty-four of the Ballot Act, 1872, as extended or applied by any subsequent enactment;

(b) subsection (5) shall have effect as if the reference to the Second Schedule to the Local Government Act, 1933, or the London Government Act, 1939, were omitted. [222]

Local Government Act, 1933.—S. 82 (1) (b) thereof makes guilty of the offence of personation any person who, having voted once at a local government election, applies at the same election for a ballot paper in his own name. Schedule II thereto contains provisions for the conduct of elections of county and borough councillors.

London Government Act, 1939.—S. 56 (1) (b) thereof similarly makes guilty of the offence of personation any person who, having voted once at a local government election, applies again for a ballot paper in his own name. Schedule II thereto contains rules relating to the election of councillors.

Act of 1943.—See s. 38, *post*.

Ballot Act, 1872, s. 24.—The section deals with the definition and punishment of personation.

32. Application and interpretation of Part IV.—(1) *Repealed.* [223]

(2) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“declaration of residence” means a service declaration and any corresponding declaration to be made for the purposes of the Act of 1943 by a person engaged in war work abroad;

“postal voting areas” means the United Kingdom and such other areas as may be prescribed;

“prescribed” means prescribed by electoral registration regulations.

[224]

Sub-s. (1).—This subsection, which limited the application of Part IV of the Act, so far as it relates to postal voting at parliamentary elections, to general elections initiated between April 1 and December 31, 1945, has been repealed by the Elections and Jurors Act, 1945, *post*, which provides for an extension of these facilities until December 31, 1946, or such later date as may be prescribed by regulations.

Act of 1943.—See s. 38, *post*.

PART V

MISCELLANEOUS AND GENERAL

33. Amendment as to redistribution of seats.—(1) The date as soon as may be after which—

(a) the Boundary Commissions for Scotland, Wales and Northern Ireland are required to be constituted under paragraph (b) of subsection (2) of section one of the House of Commons (Redistribution of Seats) Act, 1944; and

(b) all the Boundary Commissions are required under subsection (1) of section three of that Act to take into consideration the representation in the House of Commons of that part of the United Kingdom with which they are concerned;

shall, instead of being the date on which regulations made in pursuance of subsection (3) of section twelve of the Act of 1943 come into force, be the day appointed for the purposes of this section; and in relation to a report by a Boundary Commission under the said section three of the said Act of 1944, the enumeration date for the purpose of the Third Schedule to the said Act shall be the day so appointed instead of the date mentioned in subsection (2) of that section. [225]

(2) The day appointed for the purposes of this section shall be the fifteenth day of October, nineteen hundred and forty-six, or if the Secretary of State by order so directs, the next preceding or next succeeding fifteenth day of October:

Provided that no such order shall have effect unless a draft thereof has been approved by resolution of each House of Parliament. [226]

(3) For subparagraph (b) of paragraph (1) of rule 8 of the rules contained in the Third Schedule to the said Act of 1944 (which defines the expression "electorate") there shall be substituted the following subparagraph—

"(b) the expression 'electorate' means—

(i) in relation to a constituency or any part thereof, the number of persons whose names appear on the parliamentary register of electors in force on the enumeration date under the Representation of the People Acts for the constituency or that part thereof, or, if no such register is then so in force, the last such register which was so in force; and

(ii) in relation to Great Britain or Northern Ireland, the aggregate electorate as hereinbefore defined of all the constituencies therein." [227]

Act of 1943.—See s. 38, *post*.

Sub-s. (2).—*Appointed day.* This was fixed as October 15, 1945, by the House of Commons (Boundary Commissions) (Appointed Day) Order, 1945, *post*.

34. Provision as to superannuation rights of contributory employees.—

(1) Subject to the following provisions of this section, any contributory employee or local Act contributor who received in respect of work done by him in the standard year as returning officer at a local government election, other than an election to fill a casual vacancy, or in connection with the preparation of a register of electors under the Act of 1918 or jurors' book, remuneration, otherwise than as part of an inclusive salary continuing to be received by him, shall be entitled to contribute a sum in respect of that remuneration to the appropriate superannuation fund in respect of any year in which, by reason only of the Act of 1943 or this Act being in force, he is not required to do such work; and for the purpose of computing in accordance with the provisions of section eight of the Local Government Superannuation Act, 1937, the average remuneration of any contributory employee or of calculating the superannuation allowance of any local Act contributor under a local Act scheme, he shall be deemed to have received, in respect of service rendered in any year in respect of which such contributions were made by him, the remuneration by reference to which the contributions were calculated. [228]

(2) A person otherwise entitled under subsection (1) of this section to make contributions to a superannuation fund in respect of any year shall not be so entitled if he receives in respect of work done in that year by him under the Act of 1943 and this Act (otherwise than as part of an inclusive salary) remuneration greater than that in respect of which he would be entitled to make the contributions. [229]

(3) Where a person makes a contribution under the said subsection (1) in respect of any year, he shall not be required or entitled to make, in respect

of that year, any contribution under the Local Government Superannuation Act, 1937, in respect of the remuneration received by him (otherwise than as part of an inclusive salary) in respect of work done by him in that year under the Act of 1943 or this Act, and the said remuneration shall be disregarded for the purpose of computing, in accordance with the provisions of section eight of the said Act of 1937, his average remuneration (if he is a contributory employee) or of calculating his superannuation allowance under a local Act scheme (if he is a local Act contributor). [230]

(4) In this section the expressions "contributory employee," "local Act contributor," "local Act scheme" and "appropriate superannuation fund," have the same meanings, respectively, as in the Local Government Superannuation Act, 1937, except that in relation to a local Act contributor the last-mentioned expression means the superannuation fund in the benefits of which he is entitled to participate; and the expression "standard year" means, in relation to work done by any person as returning officer at a local government election, the last year before the year nineteen hundred and forty in which such work was done by him, and, in relation to work done by any person in connection with the preparation of a register of electors or jurors' book, the year nineteen hundred and thirty-nine. [231]

(5) In the application of this section to Scotland references to the Local Government Superannuation (Scotland) Act, 1937, shall be substituted for references to the Local Government Superannuation Act, 1937. [232]

Act of 1918.—See s. 38, *post*.

Act of 1943.—See s. 38, *post*.

Local Government Superannuation Act, 1937, s. 8.—The section deals with the question of eligibility for superannuation allowances, and with the scale of such allowances.

Under the 1937 Act, the following are the meanings of the expressions referred to in sub-s. (4) of the present Act:

"Contributory employee" means a person who is for the time being entitled to participate in the benefits of a superannuation fund under the 1937 Act, notwithstanding that he may have attained the age of sixty-five years, or that he was exempted from liability to contribute under the repealed Local Government and Other Officers' Superannuation Act, 1922 (see ss. 5, 6 (1), of the 1937 Act).

"Local Act contributor" means a person in the employment of a local Act authority who on or after the appointed day is entitled to participate in the benefits of a superannuation fund maintained under a local Act scheme (*ibid.*, s. 40).

"Local Act scheme" means a superannuation scheme administered by a council under a local Act (*ibid.*, s. 1, Schedule I).

"Appropriate superannuation fund" means the superannuation fund maintained under Part I of the 1937 Act in the benefits of which a contributory employee is entitled to participate (*ibid.*, s. 1).

35. Temporary provisions as to expenses of registration.—(1) There shall be paid out of moneys provided by Parliament—

- (a) to the Registrar-General of births, deaths and marriages in England and the Registrar-General of births, deaths and marriages in Scotland, any increase occasioned by this Act in the expenses incurred by them respectively for the purposes of the Act of 1943 and any expenses incurred by them respectively for the purposes of this Act;
- (b) to registration officers, any increase occasioned by this Act in the registration expenses to be paid to them as aforesaid under subsection (2) of section fourteen of the Act of 1943 and any registration expenses incurred by them under this Act on or before the seventh day of May, nineteen hundred and forty-five. [233]

(2) The said subsection (2) of section fourteen of the Act of 1943 and subsection (4) of that section (which requires a registration officer to account to the Treasury for certain fees and other sums received in respect of his registration duties) shall cease to have effect with respect to any registration expenses incurred or fees or other sums received after the said seventh day of May, and—

- (a) section fifteen of the Act of 1918 (which relates to the expenses of registration, etc., under that Act and provides that those expenses shall be paid by the local authority and reimbursed as to one half out of moneys provided by Parliament) shall apply for the purpose of the registration of electors in the annual register as it applies for the purpose of the registration of electors under that Act; and
- (b) for the purposes of this subsection all registration expenses incurred after the said seventh day of May in connection with the registration of electors under the Act of 1943 or this Act, and all fees or other sums received by a registration officer as such after that date in connection with such registration, shall be deemed to have been incurred or received in connection with the registration of electors in the annual register. [234]

(3) Subsection (3) of the said section fourteen of the Act of 1943 (which relates to the expenses of certain other officers having functions in connection with the registration of electors, and provides that in so far as incurred under national registration regulations they shall be treated as incurred by the Registrar-General of births, deaths and marriages in England and in so far as otherwise incurred they shall be treated as part of the registration expenses of registration officers) shall apply to expenses incurred by virtue of this Act as if references therein to that Act included references to this Act. [235]

(4) In this section the expression "registration expenses" has the same meaning as in the said section fifteen of the Act of 1918. [236]

(5) In the application of this section to Scotland—

(a) for the words "registration officers" there shall be substituted the words "councils appointing registration officers";

(b) *Repealed.*

(c) for the reference to subsection (3) of section fourteen of the Act of 1943 there shall be substituted a reference to the subsection substituted therefor by section twenty-three of the said Act. [237]

Act of 1943.—See s. 38, *post.* See s. 14 of that Act for the provisions contained therein as to the expenses of registration.

Act of 1918.—See s. 38, *post.* "Registration expenses" in s. 15 means any expenses properly incurred by a registration officer in the performance of his duties in relation to registration, including all proper and reasonable charges for trouble, care and attention in the performance of those duties, and any costs incurred by him as party to an appeal.

Sub-s. (5) (b).—This paragraph, which provided that for the reference to s. 15 of the 1918 Act there should be substituted a reference to the provision substituted therefor by s. 43 of that Act, has been repealed by the Elections and Jurors Act, 1945, *post.*

36. Permanent provisions as [to] * expenses of registration.—(1) It is hereby declared that nothing in subsection (2) of section fifteen of the Act of 1918 (which authorises the Treasury to frame a scale of registration expenses and provides that expenses shall be taken to be properly incurred if not exceeding the maximum amount in the scale) is to be construed as entitling a registration officer to receive payments in excess of the expenses actually incurred by him, except his proper and reasonable charges for his own trouble, care and attention. [238]

(2) For the purposes of the said section fifteen the registration expenses payable to a registration officer may include sums for the remuneration and expenses of any staff provided by a local authority, but shall not include any sum on account of the use of premises, furniture or equipment provided by a local authority in excess of the amount by which that authority's expenditure has actually been increased by the use of those premises or of that furniture or equipment in connection with the registration of electors. [239]

Act of 1918.—See s. 38, *post.*

37. Approval of electoral registration regulations.—Section twenty of the Act of 1943 (which requires electoral registration regulations to be approved by Parliament before coming into force) shall apply to electoral registration regulations made under this Act as it applies to electoral registration regulations made under that Act. [240]

Act of 1943.—See s. 38, *post*.

38. Interpretation.—In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them :—

“the Act of 1918” means the Representation of the People Act, 1918, as amended by any subsequent enactment ;

“the Act of 1943” means the Parliamentary Electors (War-Time Registration) Act, 1943, as amended by the Parliamentary Electors (War-Time Registration) Act, 1944 ;

“constituency”, “general election” and “university constituency” have the same meanings respectively as in the Act of 1918 ;

“electoral registration regulations” means regulations made by the Secretary of State under the Act of 1943, or this Act, and the expression “national registration regulations” has the same meaning as in that Act ;

“local government area” and “local government election” mean respectively any area which is a local government electoral area for the purposes of the Act of 1918, and a local government election within the meaning of that Act ; and the expression “local government elector” shall be construed accordingly. [241]

“*Constituency*”.—This means any county, borough or combination of places, or university or combination of universities, returning a member to serve in Parliament ; and, where a county or borough is divided for the purpose of Parliamentary elections, means a division of the county or borough so divided ; and elections for any such division shall be held in the same manner and subject to the same provisions as those for undivided counties or boroughs (Act of 1918, s. 41).

“*General election*”.—This means an election of members to serve in a new Parliament of the United Kingdom (*ibid.*).

“*University constituency*”.—This means a constituency consisting of a university or combination of universities (*ibid.*).

“*National registration regulations*”.—This means regulations made by the Minister under the National Registration Act, 1939 (Act of 1943, s. 22).

“*Local government electoral area*”.—This means the area for which any county council, municipal borough council, metropolitan borough council, district council, board of guardians, parish council, or any other body elected at the time of the passing of the 1918 Act by persons on the local government register or on the register of parochial electors is elected (Act of 1918, s. 41).

39. Application to Northern Ireland.—(1) Subject to the following provisions of this section, any reference in this Act to an enactment of the Parliament of the United Kingdom shall, in the application of this Act to Northern Ireland, be construed as a reference to that enactment as it applies in Northern Ireland. [242]

(2) Subject to the following provisions of this section, nothing in this Act shall apply in respect of the election of members to serve in the Parliament of Northern Ireland or of members of any local authority in Northern Ireland, and accordingly, but without prejudice to the generality of the foregoing words—

(a) in respect of any such election, sections one and two of this Act shall not apply ;

(b) the annual register shall in Northern Ireland consist only of the general register, and neither that register nor any register prepared under the Act of 1943 shall relate to local government electors ;

(c) the register of local government electors prepared under section eleven of the Act of 1918, which came into force in Northern Ireland on the fifteenth day of December, nineteen hundred and thirty-nine, shall remain in force for the purposes and for the period for which it would have remained in force if this Act had not been passed. [243]

(3) For the reference in subsection (4) of section fourteen to the registration officer there shall, in the application of this Act to Northern Ireland, be substituted a reference to the person to whom the application referred to in that subsection is to be made in accordance with electoral registration regulations. [244]

(4) In the application of this Act to Northern Ireland paragraph (b) of subsection (1) of section thirty-five shall apply to registration expenses incurred by registration officers under this Act, whether or not incurred after the seventh day of May, nineteen hundred and forty-five; and for subsection (2) of the said section thirty-five there shall be substituted the following subsection :—

“(2) Subsection (2) of section fifteen of the Act of 1918 (which authorises the Treasury to frame a scale of registration expenses) shall apply for the purposes of paragraph (b) of the last foregoing subsection and for the purposes of the said subsection (2) of section fourteen of the Act of 1943 as it applies for the purposes of the said section fifteen of the Act of 1918.” [245]

(5) For the purpose of any Act of the Parliament of Northern Ireland, whether passed before or after this Act, (hereafter in this section referred to as the “Northern Irish Act”) which makes provision for the use, in connection with the registration of electors for the election of members to serve in that Parliament or of members of local authorities in Northern Ireland, of any information as to the National Register, or of any information or document to be used also for the purposes of the Act of 1943 or Part III of this Act, subsection (3) of section five of the Act of 1943, section ten of that Act (both as therein enacted and as applied in relation to persons engaged in war work abroad by electoral registration regulations) and paragraph 3 of Part II of the Fourth Schedule to this Act shall apply as they apply for the purposes of the Act of 1943 and Part III of this Act, subject to the following modifications :—

(a) any reference in subsection (3) of the said section five (which as it applies to Northern Ireland confers power by national registration regulations to prescribe the information as to the National Register which is to be furnished to registration officers for the purposes of that section) to that section shall be construed as a reference to the Northern Irish Act;

(b) any reference in the said section ten (which relates to the affording of information and facilities to service voters) or the said paragraph 3 to the Act of 1943 or Part III of this Act shall include a reference to the Northern Irish Act. [246]

(6) The Northern Irish Act may provide for making (with the consent of the Secretary of State) such alterations of and additions to any forms prescribed under electoral registration regulations, or any electors list, supplementary list, register or other document to be used for the purposes of the Act of 1943 or Part III of this Act, as may be necessary or proper for the purposes of the Northern Irish Act. [247]

(7) The Treasury may make with the appropriate department of the Government of Northern Ireland arrangements for determining what part of any expenses incurred in connection with the registration of electors in Northern Ireland is to be attributed respectively to the Act of 1943 or Part

III of this Act and to the Northern Irish Act, and the arrangements may make provision—

- (a) for making any scale of registration expenses framed by the Treasury by virtue of this section applicable to expenses incurred wholly or partly for the purposes of the Northern Irish Act which cannot readily be kept separate from other expenses to which the scale applies;
- (b) for the apportionment in such manner as may be agreed of any such expenses; and
- (c) as to the manner in which any such expenses are to be paid in the first instance. [248]

Act of 1918.—See s. 38, *ante*.

Act of 1943.—See s. 38, *ante*.

40. Short title, citation and repeal.—(1) This Act may be cited as the Representation of the People Act, 1945, and shall be included among the Acts which may be cited as the Representation of the People Acts. [249]

(2) The enactments mentioned in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [250]

SCHEDULES

Section 3

FIRST SCHEDULE

FORMS OF SERVICE DECLARATION, ETC.

1. Any service declaration made by a person who is a member of the forces by virtue of section three of this Act shall be in the following form, or a form to the like effect :—

Form of Service Declaration

(For use by members of the Indian, Burmese or Colonial defence forces who (a) joined on or after September 1st, 1939, or (b) (in case of reserve or auxiliary forces only) were called up for service on or after that date.)

I HEREBY DECLARE THAT I :—

Surname.....Service.....
(BLOCK CAPITALS)

Christian Names.....

Service No. (if any).....Rank or Rating.....

Am a British subject and

- * (a) joined
- * (b) was called up for service } on or after September 1st, 1939
- * Am
- * Am not } 21 years of age or over

* (If under 21 years of age) was born on—

Day	Month	Year
:	:	:

and reside or but for my service would reside at :—
(Full postal address).....

I HEREBY CANCEL ANY PREVIOUS DECLARATION MADE BY ME.

Signed.....Date.....

Signature of Commanding Officer.....

Ship, Regt. or Unit.....

* Cross out inapplicable words.

2.—(1) Any declaration corresponding to a service declaration to be made by such a person as is referred to in subsection (2) of the said section three shall be in the following form, or a form to the like effect :—

Form of Declaration of Residence by a War Worker

I HEREBY DECLARE THAT I :—

Surname.....

(BLOCK CAPITALS)

Christian Names.....

Am a British subject, aged * 21 years or over

* under 21 years, having been born on—

Day	Month	Year
:	:	

and would, but for my engagement in war work abroad, reside at :—

(Full postal address).....

Before taking up such war work I served during the present war in H.M. Forces (otherwise than in a Dominion force), was discharged or released therefrom abroad and have not since been registered in the National Register.

My service particulars on release or discharge were :—

Service..... Service No. (if any).....

Rank or Rating..... Ship, Regt. or Unit.....

I HEREBY CANCEL ANY PREVIOUS DECLARATION MADE BY ME.

Signed..... Date.....

* Cross out inapplicable words.

(2) Any such declaration shall be combined in the same document with the certificates required by the said subsection (2), which shall be in the following form, or a form to the like effect :—

(a) Form of Certificate as to release or discharge

I, being a commissioned officer in H.M. Forces, hereby certify that the above declarant served in and was discharged or released from H.M. Forces as stated in the declaration.

Signed..... Rank.....

Ship, Regt. or Unit..... Date.....

*(b) Forms of certificate as to war work**(i) (If given by an officer of a government department)*

I, being a duly authorised officer of a government department, viz..... hereby certify on behalf of that department that the above declarant is employed or serving in or in connection with the department and is engaged in work of national importance outside the United Kingdom in connection with the present war.

Signed..... Date.....

Rank or capacity.....

(ii) (If given by an officer of an authorised organisation)

I being an officer of..... acting under the instructions of that organisation in the exercise of the authority conferred upon it by a government department or departments, hereby certify on behalf of the department or departments that the above declarant is in the employment or service of the organisation and is engaged in work of national importance outside the United Kingdom in connection with the present war.

Signed..... Date.....

Rank or capacity.....

3. Any appointment of a proxy made by any such member of the forces or person, where combined in the same document with a service declaration or with such a declaration of residence as aforesaid, shall be in the form prescribed by the Electoral Registration Regulations, 1944, for use by members of the forces where the appointment is combined with a service declaration.

4. Save as aforesaid none of the forms prescribed by Part II of the Third Schedule to the said Regulations shall be applicable in the case of any such member of the forces or person as aforesaid, except the form of application by a member of the forces to vote by post.

5. The provisions of this Schedule may be repealed or amended by electoral registration regulations. [251]

Sections 15, 16

SECOND SCHEDULE

REGISTRATION AS LOCAL GOVERNMENT ELECTOR

1.—(1) The qualifying date for registration as a local government elector in the civilian residence, business premises or service register shall be the same as the qualifying date for registration as a parliamentary elector.

(2) For the purpose of registration in the ratepayers register the references in section three of the Act of 1918 to the qualifying period shall be construed as references to the period of two months ending with the said qualifying date, and subsections (2) and (4) of section seven of the said Act (which contain provisions as to interrupted periods of occupation) shall not apply for the purposes of the said section three as modified by this subparagraph :

Provided that, if on the said qualifying date section one of the Parliamentary Electors (War-Time Registration) Act, 1944, is in force, paragraph (b) of the said section three (requiring a continuous period of occupation) shall also not apply and accordingly paragraph (a) thereof shall have effect as if the said qualifying date were therein referred to instead of the last day of the qualifying period.

2.—(1) Where for the purposes of election a local government area (other than a county borough or borough, not being a metropolitan borough) is divided into more than one ward or electoral division (by whatever name called) a person may be registered for more than one such ward or division (whether in respect of qualifications of the same or a different nature), but save as aforesaid a person shall not be entitled to be registered in respect of more than one qualification as an elector for the same local government area, and where he may be registered once only as a local government elector for any area, ward or division, and is entitled to be so registered in the general register, shall not be entitled to be so registered in the ratepayers register.

(2) A person shall be entitled to be registered as an elector for different local government areas, or (except where the area is a county borough or borough other than a metropolitan borough) for different wards or electoral divisions in the same local government area, in respect of any number of qualifications conferred by section one of this Act, notwithstanding that he will be so registered in the same parliamentary constituency and accordingly would not be entitled to be so registered as a parliamentary elector.

3. A person shall be entitled to be registered in the service register at any address as a local government elector if, but only if, he is entitled to be so registered as a parliamentary elector by virtue of a service declaration or other declaration of residence received by the registration officer before the qualifying date :

Provided that the foregoing provisions of this paragraph shall not apply to persons disqualified as peers from registration as parliamentary electors, but electoral registration regulations shall provide for conferring on them as nearly as may be the like rights as to registration in the service register as local government electors as if they were not so disqualified ; and any declaration of residence, or cancellation of such a declaration, required to be made for that purpose by any such person shall be in the same form as the corresponding declaration to be made by other persons for the purpose of registration as parliamentary electors, but shall be marked with the words " not available for parliamentary elections ; available only for local government elections in areas containing the address mentioned ", or words to the like effect.

4.—(1) A person shall not be entitled to be registered in the business premises register or in the ratepayers register as an elector for any local government area unless he makes an application in that behalf in the prescribed form and manner and within the prescribed time stating the prescribed particulars.

(2) In this paragraph the expression " prescribed " means prescribed by electoral registration regulations.

5.—(1) The following provisions of the Act of 1943 shall apply for the purposes of this Schedule as they apply for the purposes of that Act, namely :—

(a) subsections (2) and (3) of section five (which contain provisions as to the effect, for the purposes of the civilian residence register, of registration in the National Register and as to information required for the purposes of the civilian residence register) ;

(b) section thirteen (which relates to registration officers, their areas and duties) ; and

(c) section fifteen (which penalises the making of false declarations, etc.) ;

subject to the modification that in the said section fifteen the reference to an application to be registered in the business premises register shall include a reference to an application to be registered in the ratepayers register, and to any other modifications made by electoral registration regulations.

(2) Electoral registration regulations may also apply for the purposes of this Schedule, either generally in all cases or in such cases or for such purposes as may be specified in the regulations, any other provisions of the Act of 1943, subject to any modifications made by the regulations.

6.—(1) In the application of this Schedule to Scotland—

- (i) for any reference to a county borough or a borough there shall be substituted a reference to a burgh, and
- (ii) for subparagraph (2) of paragraph 1 the following subparagraph shall be substituted—

“(2) For the purpose of registration in the ratepayers register the references in the provision substituted by section forty-three of the Act of 1918 for section three thereof to the qualifying period shall be construed as references to the period of two months ending with the said qualifying date, and subsection (2) of section seven of the said Act shall not apply for the purposes of the aforesaid provision as modified by this subparagraph :

Provided that, if on the said qualifying date section one of the Parliamentary Electors (War-Time Registration) Act, 1944, is in force, the aforesaid provision shall have effect as if for the words ‘ last day of the qualifying period ’ there were substituted the words ‘ qualifying date ’ and as if the words ‘ and has been during the whole of that period ’ were omitted ”. [252]

Act of 1918.—See s. 38, *ante*.

Act of 1943.—See s. 38, *ante*.

Section 23

THIRD SCHEDULE

TRANSITIONAL PROVISIONS ON EXPIRATION OF NATIONAL REGISTRATION ACT, 1939.—[253] *Replaced by the Third Schedule to the Elections and Jurors Act, 1945 (see s. 16, and Third Schedule, ibid., post).*

Section 24

FOURTH SCHEDULE

ADAPTATION OF ENACTMENTS

PART I

Adaptations of Act of 1943 to Part III of this Act

In the following provisions of the Act of 1943 references to that Act shall be construed as including references to Part III of this Act, so far as it relates to parliamentary elections, namely :—

- (a) subsection (1) of section two (which provides for construing for the purposes of that Act references to the initiation of an election) ;
- (b) subsection (1) of section eleven as extended by section three of this Act (which subsection provides for conferring on persons engaged in war work abroad rights similar to those conferred by that Act on seamen) ;
- (c) subsection (2) and the following subsections of section thirteen (which relate to the duties of registration officers and other persons in connection with registration under that Act) ;
- (d) section sixteen (which relates to the right of a person registered under that Act to vote) ;
- (e) section seventeen (which provides that where a candidate dies after nomination the register prepared under that Act should remain in force, notwithstanding that section one of the Ballot Act, 1872, requires proceedings to be begun again as from the initiation of the election) ;
- (f) subsection (1) of section twenty-one (which, in relation to registration under that Act and to voting where the register is prepared under that Act, excludes the application of Parts I and II of the Act of 1918). [254]

PART II

Adaptation of Enactments to Act of 1943 and Part III of this Act

1.—(1) Subject to the provisions of this Act and the Act of 1943, there shall be substituted for any reference in any other Act (including the Act of 1918)—

- (a) to parliamentary electors, parliamentary voters, or persons entitled to vote at parliamentary elections, by whatever name called, a reference to parliamentary electors registered under the Act of 1943 or this Act ;
- (b) to local government electors, county electors, burgesses, parochial electors, or other persons entitled to vote at a local government election, by whatever name called, a reference (so far as local government elections and the right to vote at any such elections are concerned) to local government electors registered under this Act ;
- (c) to the parliamentary register of electors or to the parliamentary register or to the register of parliamentary electors or to the register of persons entitled to vote at a parliamentary election, by whatever name called, a reference to the register of parliamentary electors in force by virtue of this Act ;
- (d) to the local government register of electors, the burgess roll, the county register, the register of parochial electors, or to the register of persons entitled to vote at a local government election, by whatever name called, a reference to the register of local government electors in force under this Act ;

and local government electors registered under this Act shall for all purposes, whether statutory or not, be in the same position as local government electors registered under the Act of 1918.

(2) For the purposes of the foregoing subparagraph a civilian residence or service register published for any constituency, so far as it relates to parliamentary electors, shall be deemed to continue in force (notwithstanding that it will not be used for parliamentary elections) until a new civilian residence or service register comes into force for that constituency, and the reference in that subparagraph to parliamentary electors registered under the principal Act or this Act shall be construed accordingly.

(3) This paragraph shall not apply in relation to any time after the date of the coming into force of a new register prepared under section eleven of the Act of 1918, except for the purpose of any parliamentary election at which the time fixed for nomination falls before that date.

(4) Nothing in this paragraph shall have the effect of applying in relation to any register of local government electors under this Act any of the provisions of Part II of or the First Schedule to the Act of 1918.

2. Any corrupt and illegal practices list required to be published annually by section thirty-nine of the Corrupt and Illegal Practices Prevention Act, 1883, shall be published with the electors lists for any business premises register prepared under Part III of this Act, and not with any other register so prepared.

3. Nothing in subsection (2) of section eight of the National Registration Act, 1939 (which penalises the improper disclosure by persons employed for the purposes of that Act of information acquired in the course of their employment), shall make it an offence to furnish information as to the National Register required for the purposes of the Act of 1943 or Part III of this Act in accordance with national registration regulations ; but the said subsection (2) shall apply to any such information acquired by persons exercising functions or employed for the purposes of the Act of 1943 or Part III of this Act as if the exercise of those functions or that employment, as the case may be, were employment for the purposes of the said Act of 1939.

4. Where a registration officer is the clerk of a county council, any sums payable to him for his personal remuneration as registration officer in connection with the registration of electors under the Act of 1943 or Part III of this Act shall be dealt with under subsection (2) of section ninety-nine of the Local Government Act, 1933 (which provides among other things that the clerk of a county council shall account to the county fund for all fees and costs payable to him except fees and costs excluded when his salary is determined), in the same way as, in his case, any sums payable for his personal remuneration in connection with the registration of electors under the Act of 1918 would be dealt with under the said subsection (2).

5. The foregoing provisions of this Part of this Schedule may be varied or supplemented by electoral registration regulations. [255]

Act of 1943.—See s. 38, *ante*.

Act of 1918.—See s. 38, *ante*.

Section 40

FIFTH SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
7 & 8 Geo. 5, c. 64.	The Representation of the People Act, 1918.	In Rule 2 of the First Schedule the words "the names of those who are entitled to vote as parliamentary electors but not as local government electors", except as respects Northern Ireland.
18 & 19 Geo. 5, c. 12.	The Representation of the People (Equal Franchise) Act, 1928.	So much of section one as inserts in the Act of 1918 a new paragraph (c) of subsection (1) of section one, so much of section two as inserts in that Act a new paragraph (c) of and proviso (iii) to section three, and so much of section seven as inserts in that Act a new subparagraph (c) of paragraph (3) of section forty-three, except as respects the cases mentioned in the proviso to section two of this Act.
2 & 3 Geo. 6, c. 115.	The Local Elections and Register of Electors (Temporary Provisions) Act, 1939.	The whole Act, except section nine and section three as it applies for the purposes of section nine.
4 & 5 Geo. 6, c. 3.	The Local Elections and Register of Electors (Temporary Provisions) Act, 1940.	The whole Act, except section two and except in so far as it amends section three of the last-mentioned Act as that section applies in Northern Ireland.
4 & 5 Geo. 6, c. 49.	The Local Elections and Register of Electors (Temporary Provisions) Act, 1941.	The whole Act.
5 & 6 Geo. 6, c. 38.	The Local Elections and Register of Electors (Temporary Provisions) Act, 1942.	The whole Act.
6 & 7 Geo. 6, c. 48.	The Parliamentary Electors (War-Time Registration) Act, 1943.	In subsection (4) of section one the words from the beginning of the subsection to "business premises register". Paragraph (b) of subsection (1) and subsection (2) of section six, except as respects the cases mentioned in the proviso to section two of this Act. In paragraph (a) of subsection (2) of section twelve, the words "and business premises register", and paragraph (b) of subsection (3) of that section.

ENACTMENTS REPEALED—*continued*

Session and Chapter	Short Title	Extent of Repeal
6 & 7 Geo. 6, c. 48.	The Parliamentary Electors (War-Time Registration) Act, 1943.	Subsections (2) and (4) of section fourteen, except as respects registration expenses incurred and fees and other sums received before the eighth day of May, nineteen hundred and forty-five, and except as respects Northern Ireland. Subsections (1) and (2) of section nineteen, and in subsection (5) of that section the words "a register of electors or". Subsection (2) of section twenty-one. Subsection (2) of section twenty-four. The Third Schedule, except that paragraphs 1 to 3 shall continue to have effect for the period and in the cases mentioned in the proviso to subsection (2) of section twenty-four of this Act.
7 & 8 Geo. 6, c. 2.	The Local Elections and Register of Electors (Temporary Provisions) Act, 1943.	The whole Act except section two.
7 & 8 Geo. 6, c. 41.	The House of Commons (Redistribution of Seats) Act, 1944.	Subsection (2) of section three. Subparagraph (b) of paragraph (1) of rule 8 of the Third Schedule.
8 & 9 Geo. 6, c. 3.	The Local Elections and Register of Electors (Temporary Provisions) Act, 1944.	The whole Act.

[256]

THE LOCAL ELECTIONS (SERVICE ABROAD) ACT, 1945

(9 Geo. 6, c. 1)

PRELIMINARY NOTE

This Act is a purely temporary measure which expires on December 31, 1947 (s. 6 (2)), and which is designed to render effective the candidature at local elections of members of the forces and seamen abroad and persons engaged in war work abroad, who might otherwise find it impossible to comply strictly with local elections procedure and thus find themselves prejudiced by mere technicalities. The Act amends the previous procedure in three respects, viz., acceptance of nomination (s. 1), acceptance of office (s. 2) and returns and declarations as to election expenses (s. 3). Under the Local Government Act, 1933, Schedule II, Part I, para. 3, consent to nomination is required to be given in writing on or within one month before the last day for delivery of nomination papers, and attested by one witness. Since it might be impracticable for a consent in writing to be received in time by a person abroad, s. 1 provides for the necessary consent being sent by telegram, and dispenses with the requirement of attestation. Under s. 61 of the Local Govern-

ment Act, 1933, a person elected to certain offices is required to make a declaration of acceptance of office within two months from the date of the election. S. 2 of the present Act extends the time for making the declaration by providing that the period of two months shall run, not from the date of a person's election, but from the date of his return to the United Kingdom or the first anniversary of the day of the election, whichever date is the earlier. He thus has a maximum of fourteen months from the date of the election within which to signify his acceptance of office. The Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 21, lays down certain time limits for claiming and paying election expenses and for making returns and declarations as to such expenses. S. 3 of the present Act empowers the returning officer at a local election to extend for such period as he thinks reasonable the times for taking these steps. [257]

An Act to amend the law relating to local elections in its application to persons who are or have been engaged in service outside the United Kingdom.

[24th August, 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Consent to nomination by telegram.—(1) Where under the law relating to any local election the consent of a candidate is required to be given to his nomination, a candidate who, being a member of the forces or a seaman, is outside the United Kingdom, or who is engaged in war work abroad, may comply with that requirement by sending a telegram consenting to his nomination. [258]

(2) Where a candidate gives his consent to nomination by telegram under the preceding subsection, his consent need not be attested, but the telegram must be sent on or within one month before the last day for the delivery of nomination papers and must be delivered at the place and within the time appointed for the delivery of nomination papers. [259]

(3) The provisions of this section shall have effect in addition to, and not in substitution for, any other provision whereby consent to nomination at a local election may be given by telegram. [260]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of "local election," "member of the forces," "seaman," see s. 4, *post*.

As to when a person is deemed to be engaged in war work abroad for the purposes of this Act, see s. 4, *post*.

Sub-s. (3).—The Local Government Act, 1933, Schedule II, Part I, para. 3, provides that in the case of an election to fill a casual vacancy, if the returning officer, in the case of an election of a county councillor, or the mayor, in the case of an election of a borough councillor, is satisfied that, owing to the absence of a person from the United Kingdom, it has not been reasonably practicable for his consent in writing to be given, a telegram consenting to his nomination and purporting to have been sent by him is to be deemed to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent is not required.

2. Extension of time for acceptance of office.—(1) Where any person is elected to any of the following offices, that is to say—

- (a) chairman of a county council, county alderman or county councillor ;
- (b) mayor, alderman or councillor of a borough ;
- (c) chairman of a district council or district councillor ;

at a time when he is a member of the forces or a seaman, and, in either case, is outside the United Kingdom, or at a time when he is engaged in war work abroad, then, in determining for the purposes of section sixty-one of the Local Government Act, 1933, whether a declaration of acceptance of the office has been made and delivered within the period of two months prescribed by that section, the section shall have effect as if for the reference in subsection (1) thereof to the day of the election there were substituted a reference to the

first day after the election on which he is present in the United Kingdom or to the first anniversary of the day of the election, whichever is the earlier, and the reference in subsection (2) thereof to "the appointed time" shall be construed accordingly. [261]

(2) This section shall have effect in relation to a local election if, and only if, the day of the election occurs during the period beginning two months before the date of the passing of this Act and ending with the expiry of this Act. [262]

(3) In the application of this section to London—

- (a) the expression "borough" shall include a metropolitan borough ; and
- (b) for the reference to section sixty-one of the Local Government Act, 1933, there shall be substituted a reference to section thirty-six of the London Government Act, 1939. [263]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of "local election," "member of the forces," "seaman," see s. 4, *post*.

As to when a person is deemed to be engaged in war work abroad for the purposes of this Act, see s. 4, *post*.

Sub-s. (1).—Local Government Act, 1933, s. 61 ; see Preliminary Note, *ante*.

"Or to the first anniversary of the day of the election, whichever is the earlier."—These words were inserted by amendment in committee as it was pointed out that there was otherwise no time limit which would prevent an elected person from remaining overseas for the period of his election and thus in effect cause a vacancy. The effect of this amendment is that a person will have a maximum of fourteen months from the date of the election within which to make and deposit his declaration of acceptance of office.

Sub-s. (3).—London Government Act, 1939, s. 36.—This section corresponds to s. 61 of the Local Government Act, 1933, with the omission of references to district councillors.

3. Extension of time for claiming and paying election expenses and for making returns and declarations as to election expenses.—(1) Where it appears to the returning officer at any local election the day of which occurs after the passing of this Act—

- (a) that, under subsection (1), subsection (2) or subsection (3) of section twenty-one of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (which relate to claims in respect of expenses incurred at local elections, to the payment of such expenses, and to the making of returns and declarations as to such expenses), the period limited for the sending or making of any claim, payment, return or declaration has expired ; and
- (b) that the said period ought, in relation to any candidate, to be extended on the ground that the candidate is or has been serving outside the United Kingdom as a member of the forces or as a seaman, or on the ground that the candidate is or has been engaged in war work abroad ;

the returning officer shall direct that, in relation to that candidate and for the purposes of that election, the said section twenty-one shall have effect as if for the period so limited there were substituted such extended period as the returning officer thinks reasonable in the circumstances. [264]

(2) The provisions of this section shall have effect in addition to, and not in substitution for, any other provision whereby relief may be granted in respect of a failure to comply with the provisions of the said section twenty-one. [265]

(3) The references in the preceding provisions of this section to the said section twenty-one shall be deemed to include references to that section as extended by any other enactment. [266]

Effect of section.—See Preliminary Note, *ante*.

Local election.—For definition, see s. 4, *post*.

Sub-s. (2).—The Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 21 (7), provides for granting relief to a candidate who has failed to make a return and declaration as required by sub-s. (3), *ibid.*, or who makes any error or false statement therein. If he applies

to the High Court or to an election court and shows that his failure to make the return or declaration or his error or false statement arose by reason of his illness or absence, or the absence, death, illness or misconduct of any agent, clerk or officer, or by reason of inadvertence, or of any reasonable cause of a like nature and not by reason of any want of good faith, the court may, after such notice of the application, and on production of such evidence of the grounds stated in the application, and of the good faith of the applicant, and otherwise as to the court seems fit, make such order for allowing the authorised excuse for the failure to make such return or declaration, or for an error or false statement in such return or declaration, as to the court seems just.

Sub-s. (3).—The Municipal Elections (Corrupt and Illegal Practices) Act, 1884, was originally only of temporary duration, but has been extended by Expiring Laws Continuance Acts and made permanent by the Representation of the People Act, 1918, s. 35.

4. Interpretation.—(1) In this Act, except where the context otherwise requires—

“local election” means an election of a county councillor, borough councillor, metropolitan borough councillor, urban district councillor, rural district councillor or parish councillor;

“members of the forces” means any member of the armed forces of the Crown, of the Women’s Royal Naval Service, of the Queen Alexandra’s Royal Naval Nursing Service, or of any other organisation established under the control of the Admiralty, the Army Council or the Air Council;

“seaman” means a person employed or engaged, or ordinarily employed or engaged, on sea-going ships (other than vessels for the time being employed in sea-fishing or in the sea-fishing service) whether British or not, as the master or as a member of the crew thereof. [267]

(2) For the purposes of this Act, a person shall be deemed to be engaged in war work abroad if either—

(a) he is for the time being registered in the National Register as a person engaged in war work abroad; or

(b) not being so registered, he is for the time being certified in accordance with subsection (2) of section three of the Representation of the People Act, 1945, to have been a member of the forces (as defined for the purposes of the Parliamentary Electors (War-Time Registration) Act, 1943) but to have ceased to be such a member at a time when he was outside the United Kingdom, and to be engaged on work of national importance outside the United Kingdom in connection with any war in which His Majesty may be engaged. [268]

Sub-s. (2).—*National Register.* This was established under s. 1 of the National Registration Act, 1939.

Representation of the People Act, 1945, s. 3 (2).—See p. 36, *ante*.

Member of the forces.—This expression is defined for the purposes of the Parliamentary Electors (War-Time Registration) Act, 1943, by s. 22 of that Act, as extended by s. 3 (1) of the Representation of the People Act, 1945, *ante*.

5. Application to Scotland.—In the application of this Act to Scotland—

(a) For section one the following section shall be substituted:—

“1. Any enactment relating to election to the office of councillor whereby a nomination paper is required to be signed by or on behalf of the candidate nominated shall, in the case of a candidate who, being a member of the forces or a seaman, is outside the United Kingdom, or who is engaged in war work abroad, be deemed to be complied with, if a telegram consenting to his nomination is sent by him and is received by or delivered to the person, at the place and within the time to or with whom and at and within which the nomination paper is required to be delivered or lodged.”

- (b) For subsection (1) of section two the following subsection shall be substituted :—

“(1) Where any person is elected to the office of councillor at a time when he is a member of the forces or a seaman, and, in either case, is outside the United Kingdom, or at a time when he is engaged in war work abroad, any enactment requiring a declaration or intimation of acceptance of office to be made by him by a specified time, shall have effect as if it required such declaration or intimation to be made within one month from the first day after the election on which he is present in the United Kingdom or within one year after the election, whichever of those periods is the shorter.”

- (c) Section three shall have effect as if for the reference to section twenty-one of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, there were substituted a reference to section twenty-five of the Elections (Scotland) (Corrupt and Illegal Practices) Act, 1890.
- (d) The expression “local election” means an election of a councillor, and the expression “councillor” means a county, town, or district councillor. [269]

6. Short title, expiry and extent.—(1) This Act may be cited as the Local Elections (Service Abroad) Act, 1945. [270]

(2) This Act shall remain in force until the end of December, nineteen hundred and forty-seven, and shall then expire :

Provided that—

- (a) in relation to any election the day of which occurs not later than the end of December, nineteen hundred and forty-seven, this Act shall continue to have effect as if it had not then expired ; and
- (b) where the day of any local election occurs after the end of December, nineteen hundred and forty-seven, but a person has consented to his nomination at that election by a telegram which, before that time, has been duly received or delivered in accordance with the requirements of section one of this Act, the said section shall have effect in relation to the consent so given as if this Act has not then expired. [271]
- (3) This Act shall not extend to Northern Ireland. [272]

THE ELECTIONS AND JURORS ACT, 1945

(9 & 10 Geo. 6, c. 21)

PRELIMINARY NOTE

The matters dealt with in this Act fall under three main headings, viz., provisions as to electoral registrations (ss. 1-5), as to voting by post and proxy (ss. 6-8), and as to jurors books (ss. 9-12). All these provisions are intended to have temporary effect. The remainder of the Act consists of consequential and supplementary provisions.

Under s. 13 of the Representation of the People Act, 1945 (hereinafter called the 1945 Act (p. 45, *ante*)), two distinct registers of parliamentary electors were to be in force for different parts of the year 1946 and subsequent years. For an election initiated between January 1 and September 9, the register to be used was one consisting of a civilian residence register and a service register specially prepared for the election under the Parliamentary Electors (War-Time Registration) Act, 1943 (hereinafter called the 1943 Act) (which introduced a system of continuous registra-

tion based on the National Register combined with a two months' residence qualification), together with the business premises register comprised in the annual register prepared under the 1945 Act) which came into force on October 15 of the previous year. For an election initiated between September 10 and December 31, the current annual register was to be used. S. 1 of the present Act repeals these provisions and enacts that the register for use at all parliamentary elections initiated on or after January 1, 1946, and at which the time fixed for nomination falls before the coming into force of a new register prepared under s. 11 of the Representation of the People Act, 1918 (hereinafter called the 1918 Act), is to be the annual register last published in accordance with the 1945 Act. The annual register thus to be used for future parliamentary elections until the publication of a new register under the 1918 Act, is a register prepared in accordance with s. 15 of the 1945 Act (p. 47, *ante*) and published on October 15 in each year, so long as the National Registration Act, 1939, is in force on the relevant date. It has become necessary thus to extend the validity of the annual register, because administrative difficulties, chiefly staffing and printing, are such that it would probably prove impossible, in the event of a General Election being held in 1946, specially to prepare a register under the 1943 Act, on which to base the election.

S. 2 continues the operation of s. 1 of the Parliamentary Electors (War-Time Registration) Act, 1944 (hereinafter called the 1944 Act). The latter section amended the 1943 Act, so as to make the date by reference to which a person's qualification for registration in the parliamentary register was to be ascertained the last day of the month next but one before (instead of next before) that in which the election was initiated, and it also replaced the requirement under the 1943 Act of two months' continuous residence before the qualifying date with a requirement of residence upon the qualifying date. Therefore a person resident in a constituency upon the qualifying date will, irrespective of the length of his residence, be, if otherwise eligible, registered in the parliamentary register for that constituency. Furthermore, it will not be possible for that person, although he may move from the constituency within, say, a month after the qualifying date, to appear on the register of another constituency until October 15 of the following year, although he will, by s. 6 (1), *post*, be enabled to vote by post as an absent voter.

Ss. 3, 4 and 5 deal with supplementary registers. S. 3 provides for the preparation of a supplementary register and for its publication on February 28, 1946. This register caters for two classes of persons, viz., service personnel and war workers, who are to be registered as service voters, and persons who have ceased to be members of the forces or seamen between June 30 and December 31, 1945, who are to be registered as civilian voters. A person is entitled to be registered as a service voter in the supplementary register for a constituency, if between June 30 and December 31, 1945, the registration officer receives from that person a service declaration or a war worker's declaration and he is a person who would have been entitled by virtue of the declaration to be registered in the service register comprised in the annual register if his declaration had been received before June 30, 1945. A person is entitled to be registered as a civilian voter in the supplementary register for a constituency if he ceased to be a member of the forces or a seaman between June 30 and December 31, 1945, and thereupon became registered in the National Register as residing at a place in the constituency. The registration officer for each constituency is, so far as practicable, to secure that no person is registered more than once in the supplementary register for the constituency.

S. 4 deals with the voting rights of persons registered in the supplementary register. Sub-s. (1) provides that the supplementary register shall, in addition to the annual register, be in force for the purposes of any parliamentary election initiated on or after March 1, 1946, being an election at which the time fixed for nomination is not later than October 14, 1946. Sub-s. (2) provides that from March 1 to October 14, 1946, the supplementary register shall be in force, in addition to the annual register, as a register of local government electors. Sub-s. (3) gives to persons registered as service voters in the supplementary register rights of postal and proxy voting.

S. 5 contains a number of ancillary provisions relating to the supplementary register, chief among which are provisions for extending the time for registration of prisoners of war in the supplementary register (sub-s. (1)), and for determining whether a person is entitled to be registered as a civilian voter in the supplementary register (sub-s. (2)).

S. 6 extends the present facilities for postal voting by persons registered in the civilian residence register. Firstly, a person who has moved from his registered address, may, on application to the registration officer, be entered on the absent voters list, provided that the address to which he has moved is not in the same area as his registered address. Secondly, a person who would have to make a sea or air journey in order to vote in person, is permitted to vote by post. Thirdly, postal voting facilities are given to a person who is so physically incapacitated that he would be unable to vote in person or to vote in person without assistance. The above facilities are also given to persons registered as civilian voters in the supplementary register.

S. 7 enables a person who is entitled to vote as proxy for a service voter at a parliamentary election initiated on or after March 1, 1946, but who is not entitled to vote by post as an absent voter in his own right at that election, on having his name entered on a list of postal proxy voters kept for the purposes of this section, to vote by post as proxy for the service voter in the same way as an absent voter, provided that his address is not in the same area as the service voter's address.

S. 8 extends until December 31, 1946, or until such later date as may be prescribed by electoral registration regulations, the arrangements for postal voting which were in force during the recent General Election. These arrangements are contained in Part IV of the 1945 Act (p. 52, *ante*) and were, by s. 32 (1), *ibid.*, to expire on December 31, 1945.

Ss. 9-12 deal with the compilation of fresh jurors books for England and Wales. The jurors books at present in existence are those which came into force on January 1, 1940, and which are, therefore, a good deal out of date. These books are to remain in force until December 31, 1946, and new jurors books are to be prepared under this Act to come into force on January 1, 1947, and on the same date in each subsequent year, provided that they are not to be so prepared for any year, if, in the preceding year, a register of electors has been prepared under s. 11 of the 1918 Act (s. 9 (1), (2)). No jurors books are to be prepared under the Juries Act, 1922, in any year in which no register of electors is prepared under s. 11 of the 1918 Act (s. 9 (3)). The new jurors books are to be prepared by reference to the civilian residence electors lists published in the preceding year in accordance with s. 21 (2), (b) of the 1945 Act (p. 51, *ante*) (s. 10 (1)). Under a procedure to be laid down by jurors book regulations each registration officer is to send copies of these lists to the appropriate rating authority who will be required to mark thereon the names of such persons as appear to them to be qualified to serve as jurors or special jurors and then to return the lists to the registration officer before October 15 next following their publication or such earlier date as may be prescribed. County council clerks will prepare jurors books from the lists so returned to registration officers (s. 10 (2)).

S. 11 enables a person who claims that by reason of some disqualification or exemption his name ought not to be marked in an electors list to apply to the registration officer to have the mark against his name removed (sub-s. (1)), and, on an adverse decision by the registration officer, to appeal to a court of summary jurisdiction (sub-s. (2)). Regulations are to provide for making such corrections in electors lists and jurors books prepared under the Act as may be necessary to give effect to decisions of registration officers on applications under this section and of courts of summary jurisdiction on appeals arising out of such applications (sub-s. (3)). A registration officer is to inform a person whose name is marked in an electors list for the first time that his name has been so marked and of his rights under this section (sub-s. (4)).

S. 12 contains certain supplementary provisions as to jurors books. Regulations are to make provision for securing that where a person upon a claim made under s. 21 (2), (c) of the 1945 Act (p. 51, *ante*), or upon an appeal arising out of such claim, establishes his right to be included in a civilian residence register, his name shall, if he is qualified and liable to serve as a juror, be included in the appropriate jurors book prepared under this Act, and for adapting the provisions of s. 10 to such a person. Conversely, where a person successfully objects, under the above paragraph (c), to the inclusion of his name in the civilian residence register, his name shall not be included in the jurors book prepared by reference to the electors lists for that register (sub-s. (1)). S. 1 (6) of the Juries Act, 1922, which provides that a person who has been wrongly marked as a juror, shall not be subsequently marked without prior notice, and sub-s. (11), *ibid.*, which imposes penalties upon registration

officers failing to perform their duties under that section, are, with modifications, to apply with respect to the preparation of jurors books under this Act (sub.-s. (2)).

The remainder of the Act consists of consequential and supplementary provisions. S. 14 prohibits a person from voting twice at a general election in respect of a residence qualification. S. 15 provides for the application and adaptation of certain parts of the 1943 and 1945 Acts to this Act. S. 16 and the Third Schedule contain transitional provisions applicable to preparation of registers on the expiration of the National Registration Act, 1939. S. 17 contains financial provisions and s. 18 provides for parliamentary approval of electoral registration and jurors books regulations. S. 19 deals with university elections. S. 20 defines addresses which are deemed to be in the same area. This definition is for the purposes of s. 6 (1), which gives postal voting facilities to a person who moves from his registered address to another address not in the same area as his registered address, and for the purposes of s. 7, which allows a proxy for a service voter to vote by post if his address is not in the same area as the address of the service voter. [273]

ARRANGEMENT OF SECTIONS

Temporary provisions as to Electoral Registration

Section	Page
1. Annual register to be used for all parliamentary elections until registers are in force under 7 & 8 Geo. 5, c. 64	78
2. Continuance of section one of 7 & 8 Geo. 6, c. 24	79
3. Supplementary register	79
4. Right of person registered in supplementary register to vote	81
5. Ancillary provisions as to supplementary register	81

Temporary Provisions as to Voting by Post and by Proxy

6. Extension of facilities for voting as a civilian absent voter	82
7. Extension of right of service voter's proxy to vote by post	83
8. Extension of operation of certain temporary provisions as to voting by post	84

Temporary Provisions as to Jurors Books

9. Temporary provisions as to jurors books	84
10. Procedure for preparing jurors books under this Act	85
11. Appeals, etc.	85
12. Supplementary provisions as to jurors books	86

Returning Officers for Scottish Constituencies

13. Returning officers for Scottish constituencies situated in more than one sherriffdom	87
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Consequential and Supplementary Provisions

14. Prohibition of voting twice at a general election in respect of residence qualifications	87
15. Application and adaptation of enactments	87
16. Transitional provisions	88
17. Financial provisions	88
18. Approval of regulations by Parliament	89
19. Saving for university elections	89
20. Addresses within the same area	89
21. Interpretation	90
22. Application to Scotland	91
23. Application to Northern Ireland	91
24. Repeal of enactments	92
25. Short title and citation	92

SCHEDULES :

First Schedule.—Enactments ceasing to have effect under Section One of this Act	92
Second Schedule.—Modifications of Section Twenty-three of Act of 1918	93
Third Schedule.—Transitional provisions on expiration of National Registration Act, 1939	93
Fourth Schedule.—Enactments repealed	94

An Act to amend the law relating to electoral registration and to voting at parliamentary and local government elections ; to make provision with respect to jurors books ; to amend the law relating to returning officers for Scottish constituencies ; and to provide for matters connected with the purposes aforesaid.

[20th December, 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Temporary provisions as to Electoral Registration

1. Annual register to be used for all parliamentary elections until registers are in force under 7 & 8 Geo. 5, c. 64.—(1) Notwithstanding anything in the Act of 1943 or in the Act of 1945, the register of electors to be in force for a parliamentary election which—

- (a) is initiated on or after the first day of January, nineteen hundred and forty-six ; and
- (b) is an election at which the time fixed for nomination falls before the coming into force of a new register prepared under section eleven of the Act of 1918 ;

shall, subject to the provisions of this Act, be the register which, at the time fixed for nomination at the election, is the annual register last published in accordance with the Act of 1945. [274]

(2) No register shall be specially prepared for any such parliamentary election in accordance with the Acts of 1943 and 1945. [275]

(3) The enactments specified in the First Schedule to this Act shall cease to have effect to the extent specified in the third column of that Schedule. [276]

Effect of section.—See Preliminary Note, *ante*.

Sub-s. (1).—“ Act of 1943 ”. This is the Parliamentary Electors (War-Time Registration) Act, 1943 (see s. 21, *post*). The Act introduced a system, with a view to providing and maintaining an up-to-date register, of continuous registration based upon the National Register, together with a qualifying period of two months' continuous residence prior to the qualifying date (see notes to s. 2, *post*). Administrative difficulties during the war, chiefly shortage of staff and lack of printing facilities, made it impossible to compile registers on this basis and the residence qualification was therefore abolished by the Parliamentary Electors (War-Time Registration) Act, 1944, and the abolition is continued by the present Act (see s. 2, *post*, and notes thereto).

“ Act of 1945 ”.—This is the Representation of the People Act, 1945 (see p. 31, *ante*, and s. 21, *post*). See Preliminary Note, *ante*, as to the provisions of this Act relative to registers for use in 1946 or any subsequent year.

“ S. 11 of the 1918 Act ”.—This is the Representation of the People Act, 1918 (see s. 21, *post*). As amended by the Representation of the People (Economy Provisions) Act, 1926, it provides for the preparation of an annual register to come into force on October 15 in each year. The preparation of this annual register was postponed by the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, which was annually renewed. It is now postponed by s. 23 (2) of the 1945 Act until after the expiration of the National Registration Act, 1939. If the latter Act expires before March 31 in any year, a register under s. 11 of the 1918 Act will be prepared and come into force on October 15 of that year, but if the 1939 Act expires after March 31, then the register under the 1918 Act will not come into force until October 15 of the following year. For transitional provisions applicable on the expiration of the 1939 Act, see Third Schedule, *post*.

“ Annual register last published in accordance with the Act of 1945 ”.—S. 15 of the 1945 Act provides that if in the year 1945 or any subsequent year the National Registration Act, 1939, is in force on the relevant date, viz., June 30 (see s. 15 (5)), there shall be prepared a register of local government electors and parliamentary electors which shall be published and come into force on October 15 in that year and be called the annual register. This is the register which is now to be used for all elections in 1946 or any subsequent year. An election in, for instance, May, 1946, would be based on the annual register published on October 15, 1945, while an election in November, 1946, would be based on the register coming into force on October 15, 1946. Qualification for entry in the register is residence in a constituency upon June 30 prior to publication of the register (see s. 15 (5) of the 1945 Act ; also s. 2, *post*, and notes thereto).

Sub-s. (2).—See notes to sub-s. (1), *supra*.

Sub-s. (3).—The passing of this section has resulted in the consequential repeal of certain parts of the 1918, 1943 and 1945 Acts.

General note on section.—It will be noted that although this section is intended to be of temporary application, no time limit is placed upon its operation. A committee has been

appointed by the Home Secretary to make recommendations on electoral machinery and it is hoped to base permanent legislation on these recommendations. Since it might not, however, be possible to produce this legislation in time for a 1947 register to be based upon it, the Government has preferred to leave this section in its permanent form rather than be obliged in 1947 to introduce a further temporary measure should the permanent legislation not then be ready.

2. Continuance of section one of 7 & 8 Geo. 6, c. 24.—Section one of the Act of 1944 (which amends the Act of 1943 in relation to the qualifications for inclusion in electoral registers) shall remain in force until the end of December, nineteen hundred and forty-six, and shall then expire unless the expiry thereof is postponed in accordance with the provisions of subsection (2) of that section; and accordingly the said subsection (2) shall have effect as if for the reference therein to the thirty-first day of December, nineteen hundred and forty-five there were substituted a reference to the thirty-first day of December, nineteen hundred and forty-six. [277]

"Act of 1943".—This is the Parliamentary Electors (War-Time Registration) Act, 1943 (see s. 21, *post*, and notes to s. 1, *ante*).

"Act of 1944".—This is the Parliamentary Electors (War-Time Registration) Act, 1944 (see s. 21, *post*, and notes to s. 1, *ante*).

The Act of 1943 provided that the qualification for entry on the civilian residence register was to be continuous residence in a constituency for a period of two months ending on the qualifying date (s. 5 (1), *ibid.*), which date was defined by s. 1 (4), *ibid.*, as the last day of the month next before that in which the election was initiated. In the case of the business register the qualification was stated to be the occupation of business premises for a period of two months ending on the same qualifying date (s. 6 (1), *ibid.*). Owing to staff and printing difficulties, it proved impossible to compile registers on this basis, and the Parliamentary Electors (War-Time Registration) Act, 1944, therefore made the following amendments to the above provisions: (1) It amended s. 1 (4) of the 1943 Act by putting back the qualifying date to the last day of the month next but one before that in which the election was initiated (s. 1 (1) (a)). (2) It replaced the requirements of s. 5 (1) of the 1943 Act as to two months' residence qualification, with the provision that a person who, on the qualifying date, was a British subject of full age and not subject to any legal incapacity, should be entitled to be registered in the civilian residence register for an election in any constituency if on that date he was registered in the National Register as residing at a place in that constituency (s. 1 (1) (b)). (3) It provided, by amending s. 6 (1) of the 1943 Act, that a person should be qualified to be entered on the business premises register if on the qualifying date he was occupying business premises in the constituency without regard to whether or not he had been doing so continuously for a period of two months ending on the qualifying date (s. 1 (1) (c)). Since the administrative difficulties which occasioned the passing of the 1944 Act still persist it has been found necessary to continue the operation of s. 1 thereof until December 31, 1946, with power to postpone the expiry of the section on that date in accordance with the provisions of sub-s. (2), *ibid.* (See note on operation of section, *infra*).

Operation of section.—S. 1 (2) of the 1944 Act provides that that section shall expire on December 31, 1945, but that the Home Secretary may by order advance the date of expiry, or it may be postponed by a resolution of both Houses of Parliament. The present section expires on December 31, 1946, but its expiry may accordingly be postponed by resolution of both Houses of Parliament.

3. Supplementary register.—(1) Immediately after the end of December, nineteen hundred and forty-five, the registration officer for each constituency shall, in accordance with electoral registration regulations, prepare for the constituency a register to be known as "the supplementary register".

[278]

(2) A person shall be registered as a service voter in the supplementary register for a constituency if—

- (a) the registration officer has, between the end of June, nineteen hundred and forty-five, and the end of December in that year, received in respect of that person a service declaration or a war worker's declaration, and, in either case, the declaration has been transmitted to the registration officer in accordance with the provisions contained in that behalf in national registration regulations;
- (b) the declaration has not been cancelled before the end of December, nineteen hundred and forty-five; and
- (c) the said person would have been entitled by virtue of the declaration to be registered in the service register comprised in the annual register for the constituency if the registration officer had received the declaration before the end of June, nineteen hundred and forty-five.

Where a service declaration or a war worker's declaration appears to have been duly made signed and attested, and it appears from the declaration that the person to whom it relates has attained or will attain the age of twenty-one years before the first day of January, nineteen hundred and forty-six, the said person shall be deemed for the purposes of this subsection to have been of full age on the thirtieth day of June, nineteen hundred and forty-five. [279]

(3) A person shall be registered as a civilian voter in the supplementary register for a constituency if it appears to the registration officer—

- (a) that the said person ceased to be a member of the forces or a seaman between the end of June, nineteen hundred and forty-five, and the end of December in that year ;
- (b) that, upon so ceasing, he became registered in the National Register as residing at a place in the constituency ; and
- (c) that, upon so ceasing, he was a British subject of full age and not subject to any legal incapacity. [280]

(4) The registration officer for each constituency shall, so far as is reasonably practicable, secure—

- (a) that no person is registered more than once in the supplementary register for the constituency ; and
- (b) that, notwithstanding anything in the preceding provisions of this section, a person is not registered in the supplementary register for the constituency if he is registered, in respect of an address in the constituency, in the civilian residence register or the service register comprised in the annual register published in the year nineteen hundred and forty-five. [281]

(5) The supplementary register for each constituency shall be published on the twenty-eighth day of February, nineteen hundred and forty-six. [282]

Object of section.—This section has a two-fold object. Firstly, it enables a service voter who may not have been able or qualified to send in his declaration in time for the inclusion of his name in the October register to be registered in a supplementary register to be published on February 28, 1946, if his declaration is received between June 30, 1945, and December 31, 1945. The persons affected by this provision are members of the forces, seamen and war workers. Secondly, it enables a member of the forces or a seaman who is released from service between June 30, 1945, and December 31, 1945, too late for inclusion as a civilian voter in the October register, to be entered as a civilian voter in the supplementary register. For voting rights of persons registered in the supplementary register, see s. 4, *post*.

Definitions.—For definitions of "constituency", "electoral registration regulations", "member of the forces", "national registration regulations", "seaman", "service declaration", "war worker's declaration", see s. 21, *post*.

Sub-s. (2).—"Service voter". S. 8 of the 1943 Act makes provision for the registration in the service register of a member of the forces or a seaman subject to his transmitting to the registration officer of his constituency a service declaration as defined in sub-s. (2), *ibid*. The expressions "member of the forces" and "seaman" are defined in s. 22, *ibid*., and the meaning of the former is extended by s. 3 of the 1945 Act (see p. 36, *ante*).

S. 11 of the 1943 Act provides for conferring on persons registered in the National Register as being engaged in war work abroad rights similar to those conferred by that Act on seamen, and s. 3 (2) of the 1945 Act (p. 36, *ante*) confers the same rights upon certain war workers abroad who are not so registered in the National Register, subject, in each case, to the transmission to the registration officer of a war worker's declaration. See Electoral Registration Regulations, 1945, Part II, *post*.

Cancellation of declaration.—See s. 5 (3), *post*, as to evidence of cancellation.

"Or will attain the age of 21 years before January 1, 1946".—These words were inserted by amendment in Committee in order to permit a person to make a declaration at any time between June 30 and December 31, 1945, whether or not he was then 21 years of age if he would in fact reach that age by January 1, 1946. It is designed to cover the case of a member of the forces or a war worker abroad, who, if he waited until he was actually 21 before making and dispatching the declaration, might find that it would arrive too late.

"War worker".—This expression is not defined but presumably means "war worker abroad".

Sub-s. (3).—As to tests for determining whether a person is to be registered as a civilian voter in the supplementary register, see s. 5 (2), *post*.

Sub-s. (4).—It will be noted that no absolute duty is placed on a Registration Officer to prevent duplication of entries in the supplementary register. Practical difficulties would seem to make it impossible to impose such a duty.

4. Right of person registered in supplementary register to vote.—(1) The supplementary register for each constituency shall, in addition to the annual register, be in force for the purposes of any parliamentary election for the constituency initiated on or after the first day of March, nineteen hundred and forty-six, being an election at which the time fixed for nomination is not later than the fourteenth day of October in that year. [283]

(2) Every supplementary register shall, during the period beginning with the said first day of March and ending with the said fourteenth day of October, be in force, in addition to the annual register, as a register of local government electors; and while a supplementary register is in force as a register of local government electors a person registered therein shall, notwithstanding anything in any enactment, be deemed to be registered as a local government elector for any local government electoral area within which the place of residence by reference to which he is so registered is situated, and the provisions of subsection (2) of section eight of the Act of 1918, so far as they relate to the right of a person registered as a local government elector to vote, shall have effect accordingly. [284]

(3) A person registered as a service voter in the supplementary register shall have the same rights of voting by post and by proxy at any election for which the supplementary register is in force as if that register were a service register in force for that election, and the provisions of the Acts of 1943 and 1945 relating to voting by post and by proxy shall have effect accordingly. [285]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of “Act of 1918,” “Act of 1943,” “Act of 1945,” “constituency,” “local government elector,” “local government electoral area,” see s. 21, *post*.

Sub-s. (1).—March 1, 1946, is the day after the supplementary register comes into force, and October 14, 1946, is the date of expiry of the annual register for that year.

Sub-s. (2).—March 1, 1946, and October 14, 1946. See note to sub-s. (1), *supra*.

S. 8 (2) of the Act of 1918.—The subsection is as follows:—

“A person registered as a local government elector for any local government electoral area shall while so registered (and in the case of a woman notwithstanding sex or marriage) be entitled to vote at a local government election for that area; but where, for the purposes of election, any such area is divided into more than one ward or electoral division, by whatever name called, a person shall not be entitled to vote for more than one such ward or electoral division.

“Notwithstanding anything in this provision a person may be registered for more than one such ward or division of a local government electoral area (not being a municipal borough) and may vote in any such ward or division for which he is registered at an election to fill a casual vacancy.”

Sub-s. (3).—S. 9 of the 1943 Act and ss. 25–32 of the 1945 Act contain the provisions of those Acts as to postal and proxy voting.

5. Ancillary provisions as to supplementary register.—(1) Section twenty of the Act of 1945 (which provides for extending the time for registering prisoners of war) shall have effect with respect to supplementary registers as if a supplementary register were a service register for which the qualifying date were the first day of January, nineteen hundred and forty-six. [286]

(2) For the purpose of determining whether a person is to be registered as a civilian voter in the supplementary register for any constituency:—

(a) a person shall be deemed to have ceased to be a member of the forces or a seaman between the end of June, nineteen hundred and forty-five, and the end of December in that year if, and only if, it appears from the particulars entered with respect to him in the National Register that he so ceased;

(b) information furnished to a registration officer in accordance with national registration regulations made under subsection (3) of section five of the Act of 1943 shall be conclusive evidence as to what particulars are, and what particulars are not, entered in the National Register with respect to any person; and

- (c) a person shall be deemed, unless the registration officer is satisfied that the contrary is the case, to have been at the material time a British subject of full age and not subject to any legal incapacity. [287]

(3) The notification to a registration officer, in accordance with the provisions contained in that behalf in national registration regulations, that a service declaration or a war worker's declaration has been cancelled shall, for the purposes of determining the right of any person to be included in the supplementary register, be conclusive evidence of the fact so notified. [288]

(4) For the purposes of the Act of 1918, the Act of 1943, and this Act, a person registered in the supplementary register shall be deemed to be registered in respect of a residence qualification. [289]

Definitions.—For definitions of "Act of 1918," "Act of 1943," "Act of 1945," "member of the forces," "national registration regulations," "seaman," "service declaration," "war worker's declaration," see s. 21, *post*.

Sub-s. (1).—S. 20 of the Act of 1945. See p. 50, *ante*.

Sub-s. (2).—See s. 3 (3), *ante*, as to registration as a civilian voter in the supplementary register.

Temporary Provisions as to Voting by Post and by Proxy

6. Extension of facilities for voting as a civilian absent voter.—(1) If any person registered in a civilian residence register as a parliamentary elector for any constituency satisfies the registration officer, on an application made within the period and in the manner prescribed by electoral registration regulations, that he no longer resides at the address in respect of which he is so registered, or at any other address within the same area, the registration officer shall enter the name of that person in the absent voters list for the purposes of every parliamentary election for which that register is used. [290]

(2) If any person registered in a civilian residence register as a parliamentary elector for any constituency satisfies the registration officer on an application made within the period and in the manner prescribed by electoral registration regulations that he will probably be unable, without making a journey by sea or air, to proceed from the address in respect of which he is registered in that register to a polling place in order to vote in person at any parliamentary election for which that register will be used, the registration officer shall enter the name of that person in the absent voters list for the purposes of every parliamentary election for which that register is used. [291]

(3) If any person registered in a civilian residence register as a parliamentary elector for any constituency satisfies the registration officer, on an application made within the period and in the manner prescribed by electoral registration regulations, and by such evidence as may be so prescribed, either—

- (a) that he is so incapacitated physically either by blindness or otherwise that he will probably be unable to vote in person at any parliamentary election for which that register will be used; or
- (b) that he is so incapacitated physically, either by blindness or otherwise, that he will probably be unable, without such assistance as is provided for by the rules for elections set out in Part I to the First Schedule to the Ballot Act, 1872, to vote in person at any parliamentary election for which that register will be used;

the registration officer shall enter the name of that person in the absent voters list for the purposes of every parliamentary election for which that register is used. [292]

- (4) Where a person is registered as a civilian voter in the supplementary

register for any constituency, the provisions of this section shall have effect in relation to him as if that register were a civilian residence register. [293]

(5) The provisions of section twenty-three of the Act of 1918 (which enable persons placed on the absent voters list under that Act to vote by post or by proxy) shall apply to persons placed on the absent voters list under this section subject to modifications specified in the Second Schedule to this Act. [294]

(6) In sub-paragraphs (a) and (b) of paragraph 1 of the First Schedule to the Act of 1943, any reference to an application by any person for his name to be entered in the absent voters list shall be construed as excluding a reference to an application made under this section. [295]

(7) Nothing in this section shall confer upon any person a right to vote by post or by proxy at any election initiated before the first day of March, nineteen hundred and forty-six. [296]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of “Act of 1918,” “constituency,” “electoral registration regulations,” “prescribed,” see s. 21, *post*.

Sub-s. (1).—“*Within the same area.*” As to when two addresses are deemed to be within the same area, see s. 20, *post*.

Sub-s. (2).—This subsection was inserted by amendment in Committee, in order, principally, to assist island residents who might find difficulty in getting to polling stations outside their own islands.

Sub-s. (3).—*Sub-paragraph (b).* The relevant rules are rules 26 and 26A (the latter added by the Blind Voters Act, 1933). Rule 26 provides for a presiding officer marking the vote of an incapacitated person, and rule 26A provides for voting by a blind voter with the assistance of a friend or relative.

7. Extension of right of service voter's proxy to vote by post.—(1) Where a person is entitled to vote as proxy for a service voter at a parliamentary election for any constituency initiated on or after the first day of March, nineteen hundred and forty-six, but is not entitled to vote by post as an absent voter in his own right at that election, then, if his name is for the time being entered on the list of postal proxy voters kept for the constituency under this section, he may, in the exercise of his right to vote at the election as proxy for the service voter, vote by post in the same way as an absent voter. [297]

(2) The registration officer for each constituency shall, in accordance with electoral registration regulations, keep a list of postal proxy voters for the purposes of this section, and a person's name shall be entered in that list if—

- (a) he has made an application to the registration officer in that behalf in accordance with electoral registration regulations ;
- (b) at the time when the application is received by the registration officer, a person is entered on the record of proxies as having been appointed proxy by the service voter in question, and the registration officer is satisfied from the application of the identity of the applicant with the person so appointed ;
- (c) the application names an address in the United Kingdom to which a ballot paper is to be sent to the applicant for the purpose of enabling him to vote by post in pursuance of the application ; and
- (d) that address is not within the same area as the address entered on the service register or, as the case may be, on the supplementary register as the address of the service voter in question. [298]

(3) A person's name shall be removed from the list of postal proxy voters kept for a constituency under this section if he makes application in that behalf to the registration officer in accordance with electoral registration regulations :

Provided that if any such application is made after the returning officer has sent a ballot paper to the applicant for the purpose of enabling him to vote by post at any election in pursuance of this section, his name shall not be removed from the list for the purposes of that election. [299]

(4) Each person whose name is entered in the list of postal proxy voters shall be distinguished in that list by a number, and in relation to any occasion on which a ballot paper is sent to him by reason of his being entered in the list, that number shall be his number for the purposes of section two of, and rule 24 in Part I of the First Schedule to, the Ballot Act, 1872. [300]

(5) When the name of any person is entered in the list of postal proxy voters in pursuance of an application made under this section, the registration officer shall record the address named in the application as the address to which a ballot paper is to be sent to the applicant, and, while the name of the applicant remains in the list in pursuance of that application, the address so recorded shall be the address to which a ballot paper is sent by the returning officer for the purpose of enabling him to vote under this section. [301]

(6) If at any election a person is entitled under this section to vote by post as proxy for a service voter, he shall not, at that election, be entitled to vote otherwise than by post as proxy for that voter. [302]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of “constituency,” “electoral registration regulations,” see s. 21, *post*.

Sub-s. (2).—Address not within the same area. As to when two addresses are deemed to be within the same area, see s. 20, *post*.

8. Extension of operation of certain temporary provisions as to voting by post.—Part IV of the Act of 1945, so far as it relates to voting by post at parliamentary elections, shall, notwithstanding anything in section thirty-two of that Act, apply to general elections initiated during the period beginning with the passing of this Act and ending with the thirty-first day of December, nineteen hundred and forty-six or with such later date as may be prescribed by electoral registration regulations; and subsection (1) of the said section thirty-two shall cease to have effect. [303]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of “Act of 1945,” “electoral registration regulations,” “general election,” see s. 21, *post*.

Temporary Provisions as to Jurors Books

9. Temporary provisions as to jurors books.—(1) A jurors book shall be prepared for each county, in accordance with the provisions hereinafter contained, for the year beginning with the first day of January, nineteen hundred and forty-seven, and for each subsequent year beginning with the first day of January:

Provided that jurors books shall not be prepared under this Act for any year if, in the preceding year, a register of electors is prepared under section eleven of the Act of 1918. [304]

(2) Notwithstanding anything in the Juries Act, 1922, or in any other enactment, the jurors book prepared for a county for the year beginning with the first day of January, nineteen hundred and forty shall be the jurors book for that county until the end of the year nineteen hundred and forty-six.

For the purposes of this subsection, the expression “county” includes the county of the City of London. [305]

(3) No jurors book shall be prepared for any county under the Juries Act, 1922, in any year in which no register of electors is prepared under section eleven of the Act of 1918; nor shall any person, during any such year, be required to perform any duty which is imposed solely with a view to the preparation of a jurors book under the Juries Act, 1922, for the year beginning with the first day of January next following. [306]

(4) No jurors book shall be prepared for the county of the City of London in the year nineteen hundred and forty-five, nor shall any person, during that year, be required to perform any duty which is imposed solely with a view to the preparation of a jurors book for that county. [307]

(5) Subsections (4) and (5) of section nineteen of the Act of 1943 shall cease to have effect. [308]

Definitions.—For definitions of “Act of 1918,” “Act of 1943,” see s. 21, *post*.

General note on section.—The Local Elections and Register of Electors (Temporary Provisions) Act, 1939, postponed the preparation of jurors books during its continuance in force and provided exemption from duties relating to their preparation (ss. 2 (4), 3, *ibid.*). The Act received annual renewal, but in 1943 the above provisions as to jurors books were repealed by the Local Elections and Register of Electors (Temporary Provisions) Act, 1943, and replaced by sub-ss. (4) and (5) of s. 19 of the Parliamentary Electors (War-Time Registration) Act, 1943, which, in turn, are replaced by sub-ss. (2) and (3) of the present section and repealed by sub-s. (5). The last jurors books to be prepared were those for the year commencing January 1, 1940, and these books are now continued in force until December 31, 1946 (sub-s. (2)). Jurors books are to be prepared under this Act to come into force on January 1, 1947, and on January 1 of each subsequent year, unless, in the preceding year, a register of electors has been prepared under s. 11 of the 1918 Act. In that event, jurors books would be prepared under the Juries Act, 1922.

10. Procedure for preparing jurors books under this Act.—(1) The jurors books to be prepared under this Act for any year shall be prepared by reference to the lists published in the preceding year, in accordance with paragraph (b) of subsection (2) of section twenty-one of the Act of 1945, of persons who appear to registration officers to be qualified to be registered in the civilian residence register.

The said lists are hereinafter referred to as “electors lists.” [309]

(2) The Secretary of State shall make provision by regulations (hereinafter referred to as “jurors books regulations”) with respect to the procedure to be followed in preparing jurors books under this Act; and such regulations shall in particular provide—

- (a) for requiring each registration officer, as soon as he has published electors lists, to supply copies of those lists to the rating authority for every county borough, county district and metropolitan borough which is wholly or partly included in his area;
- (b) for requiring each rating authority to mark in those lists in the prescribed manner the names of such of the persons included in the lists as appear to the rating authority to be qualified and liable to serve as jurors, and the names of such of the persons so qualified and liable as appear to the authority to be qualified to serve as special jurors;
- (c) for requiring each rating authority, after so marking the names as aforesaid, to return the lists to the registration officer before the fifteenth day of October next following the publication of the lists, or before such earlier date as may be prescribed; and
- (d) for requiring the clerk of the council of every county to prepare jurors books from the lists so returned to registration officers, and for enabling any such clerk to obtain from registration officers such information as he may require for that purpose. [310]

Effect of section.—See Preliminary Note, *ante*.

Sub-s. (1).—For s. 21 (2) (b) of the 1945 Act, see p. 51, *ante*.

Sub-s. (2).—The procedure is very similar to that prescribed by s. 1 of the Juries Act, 1922, for the preparation of jurors books under that Act.

Jurors books regulations.—No regulations have been made up to the time of going to press.

11. Appeals, etc.—(1) Where the name of any person has, in accordance with jurors books regulations, been marked in an electors list, and he claims that by reason of some disqualification or exemption his name ought not to be so marked, he may, within the period and in the manner prescribed by such regulations, apply to the registration officer to have the mark placed against his name removed. [311]

(2) The registration officer shall, as soon as may be, take every such application into consideration and shall, in the prescribed manner, notify to the applicant his decision thereon; and the provisions of subsection (5) of section one of the Juries Act, 1922 (which relate to appeals from the decisions

of registration officers) shall have effect as if an application made under this section were an application made under subsection (4) of that section :

Provided that in relation to any application made under this section the references in the said subsection (5) to the prescribed time shall be construed as references to such time as may be prescribed by jurors books regulations. [312]

(3) Without prejudice to the provisions of the said subsection (5), jurors books regulations shall provide for the making, in electors lists and in jurors books prepared under this Act, of such corrections as may be necessary for the purpose of giving effect to the decisions of registration officers upon applications under this section, and of courts of summary jurisdiction upon appeals arising out of such applications. [313]

(4) On the first occasion on which the name of any person is, in accordance with jurors books regulations, marked in any electors list in respect of a particular address, the registration officer shall take such steps as may be prescribed for the purpose of informing that person that his name has been so marked, and for the purpose of informing him of his rights under this section. [314]

Effect of section.—See Preliminary Note, *ante*. The procedure here laid down for applying to the registration officer for the removal of a mark against a name and for appeal to a court of summary jurisdiction against his decision on an application closely follows the procedure in sub-ss. (4) and (5) of s. 1 of the Juries Act, 1922.

Prescribed.—For definition, see s. 21, *post*.

Jurors books regulations.—See note to s. 10 (2), *ante*.

12. Supplementary provisions as to jurors books.—(1) Jurors books regulations shall provide—

(a) for securing that where, upon a claim made in pursuance of paragraph (c) of subsection (2) of section twenty-one of the Act of 1945, or upon an appeal arising out of any such claim, a person establishes his right to be included in a civilian residence register, his name shall, if he is qualified and liable to serve as a juror, be included in the appropriate jurors book prepared under this Act, and for adapting the provisions of the last preceding section in relation to any person whose name it is proposed to include in a jurors book in pursuance of the requirements of this paragraph ; and

(b) for securing that where, upon any objection made in pursuance of the said paragraph (c), or upon an appeal arising out of any such objection, it is decided that a person ought not to be included in a civilian residence register, the name of that person shall not be included in the jurors book prepared by reference to the electors lists for that register. [315]

(2) Subsection (6) of section one of the Juries Act, 1922 (which protects persons who have been wrongly marked as jurors from being marked as jurors in subsequent years without notice), and subsection (11) of that section (which imposes penalties upon officers who fail to perform their duties under that section), shall have effect with respect to the preparation of jurors books under this Act as they have effect with respect to the preparation of jurors books under that Act, subject to the following modifications, that is to say—

(a) any reference to electors lists shall be construed as including a reference to any list or other documents which are required to be supplied by a registration officer to a rating authority under jurors books regulations ; and

(b) any reference to the said section one shall be construed as a reference to jurors books regulations. [316]

(3) Except where the context otherwise requires, references to jurors books in any enactment or in any instrument having effect by virtue of any enact-

ment shall be construed as including references to jurors books prepared under this Act. [317]

(4) For the purposes of the provisions of this Act relating to jurors books—

- (a) the expression "county" means any place which is a separate county for the purposes of the Juries Act, 1922, and does not, except where the contrary is expressly provided, include the county of the City of London;
- (b) the expression "clerk of the council" has the meaning assigned to the expression "clerk of the county council" by section seven of that Act; and
- (c) the expression "rating authority", in relation to a metropolitan borough, means the council of the borough acting in their capacity as overseers. [318]

(5) In subsection (4) of section two of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, and in subsection (4) of section nineteen of the Act of 1943, the expression "county" shall be deemed always to have meant any place which is a separate county for the purposes of the Juries Act, 1922, and to have included the county of the City of London. [319]

Effect of section.—See Preliminary Note, *ante*.

"Act of 1945."—For definition see s. 21, *post*.

Jurors books regulations.—See note to s. 10 (2), *ante*.

Returning Officers for Scottish Constituencies

13. Returning officers for Scottish constituencies situated in more than one sheriffdom.—Paragraph (13) of section forty-three of the Act of 1918, in so far as it directs that the returning officer for a Scottish constituency situated in more than one sheriffdom shall be the sheriff specified in the Seventh Schedule to the said Act, shall cease to have effect, and the returning officer for any such constituency shall be the sheriff of such one of the sheriffdoms in which the constituency is situated as the Secretary of State may by order direct; and accordingly in the said paragraph for the words "specified in the Seventh Schedule to this Act" there shall be substituted the words "of such one of those sheriffdoms as the Secretary of State may by order direct" and for the words from "within which" where secondly occurring to "this Act" there shall be substituted the words "the sheriff of which is returning officer for the constituency." [320]

Consequential and Supplementary Provisions

14. Prohibition of voting twice at a general election in respect of residence qualifications.—(1) A person shall not vote at a general election for more than one constituency for which he is registered in respect of a residence qualification. [321]

(2) Subsection (1) of section twenty-two of the Act of 1918 (which imposes a penalty upon any person who, at a general election, votes for more constituencies than he is entitled to vote for in accordance with that Act) shall have effect as if the reference therein to that Act included a reference to this section. [322]

Definitions.—For definitions of "Act of 1918," "constituency," "general election," see s. 21, *post*.

S. 8 of the Representation of the People Act, 1918, provides that no person shall vote at a general election in more than one constituency on a residential qualification and s. 22, *ibid.*, imposes a penalty for voting at a general election in more constituencies than allowed.

15. Application and adaptation of enactments.—(1) Section thirteen of the Act of 1943 (which relates to registration officers, their areas and duties, and provides for the discharge of certain duties of registration officers by the

proper officers of certain local authorities) shall have effect for the purposes of this Act as if—

- (a) any reference therein to that Act included a reference to this Act ;
- (b) any reference to the register required for any election in a constituency included a reference to the supplementary register ;
- (c) any reference to national registration regulations included a reference to jurors books regulations ; and
- (d) any reference to an electors list included a reference to a supplementary register. [323]

(2) In the following provisions of the Act of 1943 references to that Act shall be construed as including references to this Act, that is to say—

- (a) subsection (1) of section two (which provides for construing for the purposes of that Act references to the initiation of an election) ;
- (b) section sixteen (which relates to the right of a person registered under that Act to vote) ;
- (c) subsection (1) of section twenty-one (which, in relation to registration under that Act and to voting where the register is prepared under that Act, excludes the application of Parts I and II of the Act of 1918). [324]

(3) Part II of the Fourth Schedule to the Act of 1945 (which provides for adapting certain enactments to that Act) shall have effect subject to the following modifications, that is to say—

- (a) in paragraph 1, any reference to the Act of 1945 shall be construed as including a reference to this Act ;
- (b) in paragraph 3, any reference to Part III of that Act shall be construed as including a reference to this Act ; and
- (c) in paragraph 4, any reference to the registration of electors under Part III of that Act shall be construed as including a reference to the registration of electors under this Act, and to the preparation of jurors books under this Act. [325]

Definitions.—For definitions of “ Act of 1918,” “ Act of 1943,” “ Act of 1945,” “ constituency,” “ national registration regulations,” see s. 21, *post*.

16. Transitional provisions.—On the expiration of the National Registration Act, 1939, the transitional provisions contained in the Third Schedule to this Act shall have effect in lieu of the provisions of the Third Schedule to the Act of 1945. [326]

General note on section.—In any year in which the National Registration Act, 1939, is in force after March 31, no register of electors is to be prepared under s. 11 of the 1918 Act (s. 23 (2) of the 1945 Act (p. 51, *ante*)). If, therefore, the 1939 Act expires between March 31 in any year and the qualifying date for preparation of the annual register under the 1945 Act, no register will be prepared for that year under the 1918 Act, nor will an annual register be prepared under the 1945 Act, since the 1939 Act will not have been in force on the relevant date (s. 15 (1), (5) of the 1945 Act). In these circumstances the transitional provisions contained in the Third Schedule to the present Act become applicable. A register prepared under s. 11 of the 1918 Act would be published on October 15 of the following year.

17. Financial provisions.—(1) Section fifteen of the Act of 1918 (which relates to the expenses and receipts of registration officers and provides that the expenses of registration officers shall be paid by the local authority and reimbursed as to one half out of moneys provided by Parliament) shall have effect for the purposes of this Act as if the duties of registration officers under this Act, including their duties with respect to jurors books, were duties in relation to registration imposed by that Act, and as if any appeal under this Act were an appeal under that Act. [327]

(2) There shall be paid to the proper officer of the council of a county borough or county district any expenses properly incurred by him in the performance of the functions of registration officers under this Act, including

reasonable charges for his own trouble, care and attention in the performance of those functions, and for the remuneration and expenses of any staff provided by the council; and any expenses so incurred by the proper officer shall for the purposes of this section be treated as having been incurred by the registration officer at whose request the functions were performed, and as having been incurred by that registration officer in the performance of his duties under this Act. [328]

Act of 1918.—For definition, see s. 21, *post*.

18. Approval of regulations by Parliament.—(1) Section twenty of the Act of 1943 (which requires electoral registration regulations to be approved by Parliament before coming into force) shall apply to electoral registration regulations made under this Act as it applies to electoral registration regulations made under that Act. [329]

(2) All jurors books regulations shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [330]

(3) Section one of the Rules Publication Act, 1893, shall not apply to jurors books regulations. [331]

Definitions.—For definitions of "Act of 1943," "electoral registration regulations," see s. 21, *post*.

19. Saving for university elections.—The provisions of this Act relating to the registration of electors shall not have effect in relation to the registration of electors for university constituencies, and the provisions of this Act relating to voting by post and by proxy, except those provisions which relate to the application of Part IV of the Act of 1945, shall not have effect in relation to elections for such constituencies. [332]

"Act of 1945."—For definition, see s. 21, *post*, and for Part IV, see p. 52, *ante*.

University constituencies.—For these constituencies, see the 1918 Act, Schedule IX, Part III, as amended by the Representation of the People (Reading University) Act, 1928. For definition of university constituency, see s. 21, *post*.

20. Addresses within the same area.—(1) For the purposes of this Act, two addresses shall be deemed to be within the same area if they satisfy one of the following conditions, but not otherwise, that is to say—

- (a) they are both within the combined area of two contiguous metropolitan boroughs;
- (b) they are both within the area of the same county borough;
- (c) they are both within the area of the same non-county borough;
- (d) they are both within the area of the same urban district; or
- (e) they are both within the area of the same rural parish. [333]

(2) The provisions of this section shall have effect in relation to an address within the area of the City of London, or of any metropolitan borough contiguous thereto, as if the City were a metropolitan borough. [334]

Effect of section.—See Preliminary Note, *ante*. In the course of the Second Reading Debate in the House of Commons, the Home Secretary said, in relation to this section and to the provisions of s. 6 (1), *ante*, as to postal voting by a person who has moved from his registered address to another address not within the same area as his registered address (416 H. of C. Official Report 451):—

"I regret that it has been necessary in this connection to arrive at a somewhat arbitrary decision of what is 'the same area.' The Government would have liked a reasonable discretion in this matter left to registration officers, because it is clear that mere removal from one side of a street to another, while it might take a person out of one area into another, may not be as serious as a removal from one side of a county borough to another—from the extreme North to the extreme South and so on. But the registra-

tion officers of the country represented to us that leaving them with a discretion in this matter might involve them in controversies from which they would wish to be spared, and in a closely contested election, when the majority either way was perhaps ten or a dozen, there might be accusations that the result had been achieved because the registration officer had, or had not, exercised his discretion in this way. I am sure that we would all desire that public servants who endeavour to discharge their duties in these matters with complete impartiality should be spared being involved in controversies of that kind."

21. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them :—

"the Act of 1918" means the Representation of the People Act, 1918 ;

"the Act of 1943" means the Parliamentary Electors (War-time Registration) Act, 1943 ;

"the Act of 1944" means the Parliamentary Electors (War-time Registration) Act, 1944 ;

"the Act of 1945" means the Representation of the People Act, 1945 ;

"constituency", "general election" and "university constituency" have the same meanings respectively as in the Act of 1918 ;

"electoral registration regulations" means regulations made by the Secretary of State under the Act of 1943, or the Act of 1945, or this Act, and "national registration regulations" has the same meaning as in the Act of 1943 ;

"local government electoral area" and "local government election" mean respectively any area which is a local government electoral area for the purposes of the Act of 1918, and a local government election within the meaning of that Act ; and the expression "local government elector" shall be construed accordingly ;

"member of the forces" and "seaman" have the meanings respectively assigned to them by section twenty-two of the Act of 1943 ;

"prescribed" means prescribed by electoral registration regulations or by jurors books regulations, as the case may require ;

"service declaration" has the same meaning as in the Act of 1943 ;

"war worker's declaration" means a declaration which is a war worker's declaration for the purposes of any electoral registration regulations for the time being in force. [335]

(2) For the purposes of section one of this Act, the annual register published on the fifteenth day of October in any year shall be deemed to have been published at midnight on the previous day. [336]

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment, including this Act. [337]

Constituency.—This means any county, borough, or combination of places, or university or combination of universities, returning a member to serve in Parliament ; and, where a county or borough is divided for the purpose of parliamentary elections, means a division of the county or borough so divided ; and elections for any such division shall be held in the same manner and subject to the same provisions as those for undivided counties or boroughs (Act of 1918, s. 41).

General election.—This means an election of members to serve in a new Parliament of the United Kingdom (*ibid.*).

University constituency.—This means a constituency consisting of a university or combination of universities (*ibid.*).

National registration regulations.—This means regulations made by the Ministers under the National Registration Act, 1939.

Local government electoral area.—This means the area for which any county council, municipal borough council, metropolitan borough council, district council, board of guardians, parish council, or any other body elected at the time of the passing of the 1918 Act by persons on the local government register or on the register of parochial electors is elected (Act of 1918, s. 41).

Member of the forces.—This means a person who, being a member of—

(a) any of the armed forces of the Crown raised in the United Kingdom ;

(b) the Women's Royal Naval Service ;

(c) the Queen Alexandra's Royal Naval Nursing Service ;

(d) any other organisation established under the control of the Admiralty, Army Council or Air Council, and raised in the United Kingdom ;

is, or would if he were in the United Kingdom be, by virtue of such membership for the time being exempt under national registration regulations from registration in the National Register (Act of 1943, s. 22). This definition is extended by s. 3 (1) of the 1945 Act so as to include any member (whether male or female) of any of His Majesty's naval, military or air forces raised elsewhere than in the United Kingdom or a Dominion, who either—

(a) on the thirty-first day of August, nineteen hundred and thirty-nine, was not a member of any such force; or

(b) being on that date a member of a reserve or auxiliary force raised as aforesaid has since that date been called up for actual service;

and who, in either case, is not for the time being released from actual service for an indefinite period.

Provided that electoral registration regulations may provide that this subsection shall not apply to any force specified in the regulations as being equivalent to the Home Guard.

In this subsection the expression "Dominion" means a Dominion within the meaning of the Statute of Westminster, 1931, and includes any territory administered by His Majesty's government in such Dominion.

Seaman.—This means a person who is for the time being exempt under national registration regulations from registration under the National Registration Act, 1939, as being a seaman, or who would be so exempt if he were in the United Kingdom, being a person whose usual place of residence is in the United Kingdom (Act of 1943, s. 22).

Service declaration.—This means a declaration in the prescribed form which purports to be signed by the person making it and to be attested by such other person as may be prescribed and states—

(a) the date of the declaration, and that on that date the declarant was a British subject; and

(b) whether the declarant had, on the date of the declaration, attained the age of twenty-one years, and, if he had not, the date of his birth; and

(c) that on the date of the declaration the declarant was, or but for his service as a member of the forces or a seaman would have been, residing at a place in the constituency of which the postal address is specified in the declaration; and

(d) the declarant's service number (if any) and such other particulars of identity (if any) as may be prescribed.

22. Application to Scotland.—(1) The provisions of this Act relating to the preparation of jurors books shall not extend to Scotland. [338]

(2) In the application to Scotland of this Act or of the Act of 1945 any reference to section fifteen of the Act of 1918 shall be construed as a reference to the said section fifteen as read with section forty-three of the Act of 1918. [339]

(3) This Act shall, in its application to Scotland, have effect as if in subsection (1) of section twenty, for paragraphs (a) to (e) there were substituted the following paragraphs—

"(a) they are both within the area of the same electoral division of a county; or

(b) they are both within the area of the same burgh." [340]

23. Application to Northern Ireland.—(1) The provisions of this Act relating to the preparation of jurors books shall not extend to Northern Ireland. [341]

(2) Subject to the following provisions of this section, any reference in this Act to an enactment of the Parliament of the United Kingdom shall, in the application of this Act to Northern Ireland, be construed as a reference to that enactment as it applies in Northern Ireland. [342]

(3) Nothing in this Act shall apply in respect of the election of members to serve in the Parliament of Northern Ireland or of members of any local authority in Northern Ireland. [343]

(4) In the application of this Act to Northern Ireland, the provisions of section seventeen shall not have effect. [344]

(5) Any expenses properly incurred by registration officers in Northern Ireland in performing their functions under this Act shall be defrayed out of moneys provided by Parliament, and subsection (2) of section fifteen of the Act of 1918 (which authorises the Treasury to frame a scale of registration expenses) shall have effect as if any such expenses were registration expenses as defined for the purposes of that section:

Provided that the expenses to be paid under this subsection shall not

include any charges for a registration officer's own trouble, care and attention in the performance of his functions.

For the purposes of this subsection, the expense of any printing required in connection with the performance of the functions of a registration officer under this Act shall be treated as part of the expenses properly incurred by the officer in performing his functions under this Act, notwithstanding that arrangements for the printing are made by the county council under section ninety-six of the Local Government (Ireland) Act, 1898. [345]

(6) In the application of this Act to Northern Ireland, for paragraph (e) of subsection (1) of section twenty, there shall be substituted the following paragraph :—

“(e) they are both within the area of the same rural district”. [346]

(7) Nothing in this Act shall affect the determination of any question as to the council whose duty it is, under subsection (1) of section thirty-one of the Act of 1918, to divide a constituency in Northern Ireland into polling districts, and to appoint polling places for the polling districts; and any such question shall be determined as if the provisions of that Act relating to registration were not suspended. [347]

24. Repeal of enactments.—The enactments specified in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule. [348]

25. Short title and citation.—This Act may be cited as the Elections and Jurors Act, 1945, and shall be included among the Acts which may be cited as the Representation of the People Acts. [349]

SCHEDULES

Section 1

FIRST SCHEDULE

ENACTMENTS CEASING TO HAVE EFFECT UNDER SECTION ONE OF THIS ACT

Session and Chapter	Short Title	Extent to which enactment shall cease to have effect
6 & 7 Geo. 6, c. 48	The Parliamentary Electors (War-Time Registration) Act, 1943.	Subsection (5) of section one. Subsection (2) of section two. Section three. Section four. Section twelve. Section seventeen.
8 & 9 Geo. 6, c. 5	The Representation of the People Act, 1945.	In sub-paragraph (iii) of paragraph (b) of subsection (1) of section thirteen, the words “or during the period beginning with the tenth day of September and ending with the thirty-first day of December in any subsequent year”. Sub-paragraph (iv) of paragraph (b) of subsection (1) of section thirteen. Section sixteen. Section seventeen. Section twenty-two.

Section 6

SECOND SCHEDULE

MODIFICATIONS OF SECTION TWENTY-THREE OF ACT OF 1918

1. Subsection (4), except so much thereof as provides that a ballot paper for the purpose of voting by post shall not be sent to any person unless the address of that person recorded by the registration officer is an address in the United Kingdom, shall not have effect, and in lieu thereof the following provisions shall have effect :—

- (a) where a person is entitled under this Act to be placed on the absent voters list for elections for which a particular civilian residence register or supplementary register will be used, he shall, if he has satisfied the registration officer, on an application for the issue of a proxy paper made in accordance with electoral registration regulations, that there is a probability that he will be at sea or out of the United Kingdom during any period during which the poll at such an election may take place, be entitled to appoint a proxy to vote for him at such an election ;
- (b) no ballot paper shall be sent for the purpose of voting by post to a person who has appointed a proxy by virtue of this paragraph while the appointment is in force ;
- (c) the provisions of the Second Schedule to the Act of 1943 shall have effect in relation to the appointment and voting of proxies under this paragraph ;
- (d) subject to the provisions of paragraph 3 of the said Second Schedule, a proxy paper issued under this paragraph shall remain in force for the purposes of every election for which the civilian residence register or supplementary register in question is used.

2. The power of prescribing forms and making regulations under subsection (6) shall be exercised by electoral registration regulations instead of by Order in Council. [351]

Section 16

THIRD SCHEDULE

TRANSITIONAL PROVISIONS ON EXPIRATION OF NATIONAL REGISTRATION ACT, 1939

1.—(1) The provisions of this paragraph shall have effect if the National Registration Act, 1939 (hereafter in this Schedule referred to as “the Act of 1939”) expires between the end of March in any year and the date which would have been the qualifying date for the general register which would have been prepared in that year if the Act of 1939 had remained in force throughout the year.

(2) Civilian residence and service registers shall be prepared for each constituency in accordance with the Act of 1943, and the qualifying date by reference to which they shall be prepared shall be the last day upon which the Act of 1939 was in force.

(3) The said registers shall be published upon such date, and shall come into force at such time, as may be prescribed by electoral registration regulations, and shall, as from that time, be substituted respectively for the civilian residence and service registers comprised in the annual register last published.

(4) A business premises register and a ratepayers register shall be prepared and published in the said year as if the Act of 1939 had not expired, and shall, as from the beginning of the fifteenth day of October in that year, be substituted respectively for the business premises register and the ratepayers register comprised in the annual register last published.

2. Until the expiration of the Act of 1943, any national registration regulations made by virtue of the Act of 1943 or of the Act of 1945 shall continue in force, and may be varied or revoked, as if the Act of 1939 had not expired. [352]

Object of Schedule.—See note to s. 16, *ante*.

Definitions.—For definitions of “Act of 1943,” “Act of 1945,” “constituency,” “electoral registration regulations,” “national registration regulations,” see s. 21, *ante*.

Section 24

FOURTH SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
7 & 8 Geo. 5, c. 64	The Representation of the People Act, 1918.	The Seventh Schedule.
6 & 7 Geo 6, c. 48	The Parliamentary Electors (War-Time Registration) Act, 1943.	Subsection (5) of section one. Subsection (2) of section two. Section three. Section four. Section twelve. Section seventeen. Subsections (4) and (5) of section nineteen.
8 & 9 Geo 6, c. 5	The Representation of the People Act, 1945.	In sub-paragraph (iii) of paragraph (b) of subsection (1) of section thirteen, the words " or during the period beginning with the tenth day of September and ending with the thirty-first day of December in any subsequent year ". Sub-paragraph (iv) of paragraph (b) of subsection (1) of section thirteen. Section sixteen. Section seventeen. Section twenty-two. Subsection (3) of section twenty-three. Subsection (1) of section thirty-two. Paragraph (b) of subsection (5) of section thirty-five. The Third Schedule.

[353]

ORDERS, CIRCULARS AND MEMORANDA

THE ELECTORAL REGISTRATION REGULATIONS, 1945

*S. R. & O., 1945, No. 271**February 16, 1945**

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Short title, citation, interpretation and commencement.
2. Definitions.
3. Operation of 1944 regulations.

* These Regulations having lain before both Houses of Parliament in accordance with s. 20 of the Parliamentary Electors (War-Time Registration) Act, 1943, and s. 37 of the Representation of the People Act, 1945, were approved by resolution of the House of Lords on March 6, 1945, and by resolution of the House of Commons on March 9, 1945.

PART II

APPLICATION OF ACTS TO WAR WORKERS

4. Scope of Part II.
5. Service register.
6. Civilian residence register.
7. Business premises applications on declaration form.
8. Business premises applications by spouse or business manager.
9. Mode of voting.
10. Appointment of proxies for war workers at university elections.
11. Arrangements for exercise of rights by war workers.
12. Application of 1944 regulations to new class of war workers.

PART III

[ANNUAL REGISTER], REGISTERS FOR MARCH ELECTIONS, AND VOTING AT ELECTIONS CONDUCTED THEREON

Preparation and Publication of [Annual register]

13. *Revoked.*
14. *Revoked.*
15. *Revoked.*
16. Numbering and corrections in electors lists and register.
17. Marking of names in register.
18. *Revoked.*
19. Service applications to be registered in business premises register in Northern Ireland.
20. Appeals from decisions of registration officer.
21. Sale of register, etc.

Absent voters and their proxies

22. Absent voters lists.
23. Absent voters' proxies.
24. Absent voters voting by post as proxy for service voters.

Service postal voters and their proxies

25. Service postal applications for general elections.
26. Service postal list, etc.

Procedure for voting by post and counting votes

27. Procedure for voting by post.
28. Provisions for checking votes of service proxies at general election.

March elections

29. *Revoked.*

Application of Part III

30. University constituencies.

PART IV

MISCELLANEOUS AND GENERAL

Service voters

31. Postal voting areas.
32. Sending of election addresses to service voters.
33. Voting by post at university elections.
34. Registration of persons who have been prisoners of war.
35. Attestation of service declarations made by members of overseas forces.

Minor amendments and supplementary provisions

36. Objections to claims.
37. Amendment of Regulation 3 of 1944 Regulations.
38. Forms.
39. Application of supplementary provisions of 1944 regulations.
40. Revocations.

SCHEDULES :—

First Schedule.—Part I—Forms for [annual register].

Part II—Forms of declaration of residence.

Second Schedule.—Postal voting areas.

In pursuance of the powers conferred upon me by the Parliamentary Electors (War-Time Registration) Acts, 1943 and 1944, and the Representation of the People Act, 1945, I hereby make the following regulations :—

PART I

PRELIMINARY

1.—(1) These regulations may be cited as the Electoral Registration Regulations, 1945, and the Electoral Registration Regulations, 1944, and these regulations may be cited together as the Electoral Registration Regulations, 1944 and 1945.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) These regulations shall come into force on the 10th day of March, nineteen hundred and forty-five. [354]

2. In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“the Act of 1943” means the Parliamentary Electors (War-Time Registration) Act, 1943, as amended by the Parliamentary Electors (War-Time Registration) Act, 1944, and by the Act of 1945 ;

“the Act of 1945” means the Representation of the People Act, 1945 ;

“the 1944 regulations” means the Electoral Registration Regulations, 1944 ;

“war work” means, in relation to any person, the work by virtue of which he is a war worker ;

“war worker” means a person who either—

(a) is registered in the National Register as a person engaged in war work abroad ; or

(b) not being so registered, is certified in accordance with subsection (2) of section three of the Act of 1945 to have been a member of the forces but to have ceased to be such a member at a time when he was outside the United Kingdom, and to be engaged in work of national importance outside the United Kingdom in connection with any war in which His Majesty may be engaged ;

“war worker’s declaration” means—

(a) in relation to a war worker registered in the National Register, the declaration of residence by virtue of which he is for the time being so registered ;

(b) in relation to a war worker not so registered, means the declaration of residence for which provision is made in Part II of these regulations ;

and the expressions “declaration of residence”, “national registration regulations”, “qualifying address” and “service voter” have respectively the meanings assigned to them by regulation thirty-nine of the 1944 regulations. [355]

3. The 1944 regulations shall, notwithstanding the amendments of the law made by the Act of 1945, continue to have effect for the purpose of elections initiated after the commencement of that Act and before the beginning of October, nineteen hundred and forty-five (subject, however, to the provisions of that Act and to the following provisions of these regulations) ; and accordingly in those regulations, unless the context otherwise requires, the expression “the Act of 1943” shall have the meaning assigned to it by the last foregoing regulation. [356]

PART II

APPLICATION OF ACTS TO WAR WORKERS

4. The provisions contained in this Part of these regulations (being the provisions formerly contained in Part I of the Electoral Registration Regulations, 1943, with certain additions and modifications required in consequence of the Act of 1945 and in particular those required in consequence of subsection (2) of section three thereof for war workers not registered in the National Register) shall have effect for conferring on war workers rights similar to those conferred by the Act of 1943 and the Act of 1945 on seamen and in connection therewith for modifying the said Acts in their application to persons who are war workers. [357]

5.—(1) Subject to the provisions of the Act of 1943 and these regulations, a person, being on the qualifying date a British subject of full age and not subject to any legal incapacity, shall be entitled to be registered in the service register in any constituency, if on that date that person—

- (a) is a war worker ; and
- (b) but for his war work would be residing at a place in the constituency.

(2) No person shall be entitled by virtue of this regulation to be registered in the service register in any constituency unless his war worker's declaration has been transmitted to the registration officer for that constituency in accordance with national registration regulations and received by that officer on or before the qualifying date (or, in the case of the May 1945 register, on or before the day specified in Part III of these regulations) ; and subsections (5) and (6) of section eight of the Act of 1943 (and also, in the case of the May 1945 register, subsection (5) of section fourteen of the Act of 1945) shall apply in relation to the registration of a war worker by virtue of this regulation as if—

- (a) for the reference in paragraph (i) of subsection (5) of the said section eight to the place at which a person is, or but for his service as a member of the forces or a seaman would be, residing there were substituted a reference to the place at which he would be residing but for his war work ;
 - (b) for any reference in paragraph (c) of subsection (6) of the said section eight to persons who have made service declarations there were substituted a reference to war workers not registered in the National Register ;
 - (c) for any other reference to a member of the forces or a seaman, and for any other reference to a service declaration, there were respectively substituted references to a war worker and to a war worker's declaration.
- (3) The war worker's declaration required to be made for the purposes of this regulation by a war worker not registered in the National Register shall—
- (a) be made in the form set out in paragraph 2 of the First Schedule to the Act of 1945 ; and
 - (b) contain the particulars and other information required by that form (so, however, that a declaration giving such particulars and information with reasonable clearness shall not be invalid by reason only of the fact that it gives them in a manner other than that indicated by the form) ;

and subsections (3) and (4) of section eight of the Act of 1943 (which relate to the cancellation of service declarations) shall apply to any such war worker's declaration as they apply to service declarations.

(4) Notwithstanding anything in paragraph 2 of the said First Schedule,

a war worker's declaration made by a war worker not registered in the National Register need not be accompanied by the certificates referred to in subsection (2) of section three of the Act of 1945 if the war worker has made a previous war worker's declaration which is cancelled by the new declaration. [358]

6.—(1) A person shall not be entitled to be registered in the civilian residence register in any constituency if, on the qualifying date, that person is a war worker, and accordingly in section five of the Act of 1943—

- (a) the reference to being registered in the National Register as usually resident outside the United Kingdom shall include a reference to being registered in that Register as a person engaged in war work abroad; and
- (b) in relation to a register prepared for, or as for, an election initiated after the date on which section one of the Parliamentary Electors (War-Time Registration) Act, 1944, expires, the reference to being removed from the National Register on becoming exempt from registration therein by virtue of national registration regulations shall include a reference to being registered in that Register as a person engaged as aforesaid.

(2) Where after the date on which the said section one expires a person ceases to be registered in the National Register as a person engaged in war work abroad, he shall be entitled to be registered in the civilian residence register in the appropriate constituency without any period of qualifying residence, and accordingly in the said section five, as it applies to a register prepared as aforesaid, any reference to becoming registered in the National Register on ceasing to be a member of the forces or a seaman shall include a reference to ceasing to be registered in that Register as a person engaged in war work abroad. [359]

7.—(1) A person qualified to be registered in the business premises register to be comprised—

- (a) in the register for any parliamentary election initiated in March, nineteen hundred and forty-five;
- (b) in the May 1945 register; or
- (c) in the annual register;

may, if at the time of his application he is a war worker, apply to be so registered on the form applicable in his case for the making of a war worker's declaration, giving the address of the business premises occupied by him on the qualifying date instead of the address at which he would have been residing but for his war work, and subsections (2), (3), (4) and (7) of section eighteen of the Act of 1945 shall apply in relation to such an application, or to a person registered in pursuance of such an application, as if it were an application made in pursuance of that section by a seaman on a form of service declaration, but with the substitution in subsection (3) of a reference to the address at which he would be residing but for his war work for the address therein mentioned.

(2) Where, within the time allowed for the receipt of applications to be registered in any such business premises register, the registration officer or other officer concerned receives a form of war worker's declaration duly filled in, and marked in accordance with the said subsection (4) with the words "business premises application" or words to the like effect, and dated on or after the qualifying date by reference to which that register is to be prepared, then if either—

- (a) the form is that appropriate for a war worker registered in the National Register and is accompanied by such a certificate as is referred to in subsection (2) of section eleven of the Act of 1943 purporting to relate to the person signing the form; or

- (b) the form is that appropriate for a war worker not registered in the National Register and is accompanied by such certificates as are referred to in subsection (2) of section three of the Act of 1945 purporting to relate to the person signing the form ;

it shall be presumed until the contrary is shown that that person was at the time of making the application a war worker and is entitled to be registered in that business premises register in respect of the premises referred to in the form. [360]

8. Section nineteen of the Act of 1945 shall apply in relation to war workers as if for the first reference in subsection (1) and for the reference in paragraph (b) of subsection (4) to a member of the forces or a seaman there were substituted references to a war worker. [361]

9. Except as provided by Part IV of the Act of 1945, a person registered in the service register as war worker shall not be entitled to vote by post, but subject to the provisions of the said Part IV may vote either in person or by proxy and accordingly subsections (1) and (2) of section nine of, and the Second Schedule to, the Act of 1943 shall have effect as if any reference to a service declaration included a reference to a war worker's declaration and the expressions " service voter " and " central index of service voters " were construed accordingly. [362]

10.—(1) A person entitled to vote at a university election shall be entitled to appoint a proxy to vote for him at any such election if, at the time of his application for the issue of a proxy paper, he is a war worker.

(2) An application for the issue of a proxy paper by any such person, being a war worker registered in the National Register, may be made on the same form as that prescribed under the Act of 1943 for use by such a war worker ; and where such a form purporting to be signed by any person is accompanied by such a certificate as is referred to in subsection (2) of section eleven of that Act, purporting to relate to that person, and bearing the same date as the application, it shall be presumed, until the contrary is shown, that the said person was a war worker so registered at the time of the application.

(3) An application for the issue of a proxy paper by any such person, being a war worker not so registered, may be made on the same form as that prescribed by or by virtue of the Act of 1945, for use by such a war worker ; and where such a form purporting to be signed by any person is accompanied by such certificates (purporting to relate to the same person) as are referred to in subsection (2) of section three of that Act, it shall be presumed, until the contrary is shown, that the said person was a war worker not registered in the National Register at the time of the application.

(4) Any proxy paper issued by virtue of this regulation shall, unless cancelled, remain in force until the expiration of the Act of 1943. [363]

11. Arrangements shall be made by each government department concerned for securing that (so far as circumstances permit)—

- (a) every person appearing to be qualified to be registered in the National Register as a war worker shall have an effective opportunity of becoming so registered in accordance with national registration regulations ;
- (b) every person appearing to be otherwise qualified as a war worker shall have an effective opportunity of obtaining the certificates required by subsection (2) of section three of the Act of 1945, and of exercising from time to time as occasion may require the rights conferred on him by virtue of these regulations in relation to the making of a war worker's declaration ;

- (c) every war worker shall have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by virtue of these regulations in relation to the business premises register and to voting by post or proxy ; and
- (d) every person who is qualified as aforesaid or is a war worker shall receive such instructions as to the effect of the Acts of 1943 and 1945 and any regulations made under or by virtue of those Acts, and such other assistance as may be reasonably sufficient in connection with the exercise of the rights conferred on him thereby. [364]

12. The 1944 regulations, as amended and extended by these regulations, shall apply to war workers not registered in the National Register as they apply to war workers so registered ; and accordingly in those regulations, unless the context otherwise requires, the expressions " war worker " and " war worker's declaration " shall have the same meanings respectively as in these regulations. [365]

PART III

The words " annual register " in square brackets throughout this Part of the regulations have been substituted for the words " May 1945 register." The substitution was effected by regulation 3 (2) of the Electoral Registration (No. 2) Regulations, 1945, *post*.

[ANNUAL REGISTER], REGISTERS FOR MARCH ELECTIONS AND VOTING AT ELECTIONS CONDUCTED THEREON

Preparation and Publication of [Annual register]

13. [366] *This regulation, which applied the 1944 regulations to the May 1945 register, has been revoked by the Electoral Registration (No. 2) Regulations, 1945, reg. 19, post.*

14. [367] *This regulation, which prescribed the time-table for the publication of the May 1945 register, has been revoked by the Electoral Registration (No. 2) Regulations, 1945, reg. 19, post.*

15. [368] *This regulation, which allowed modification of the form of the register where a division of a constituency was proposed, has been revoked by the Electoral Registration (No. 2) Regulations, 1945, reg. 19, post.*

16.—(1) The following provisions of the 1944 regulations, namely—

- (a) paragraphs (3) and (4) of regulation three (which provide for numbering the names in the electors lists and for gaps and interpolated numbers in those lists or the register where corrections have been made) ; and
- (b) paragraph (2) of regulation twelve (which provides for correcting the electors lists by means of supplementary lists instead of by making changes at the appropriate place in the register) ;

shall, in their application for the purposes of the [annual register], be permissive only, and the procedure laid down thereby shall be adopted only if it appears to the registration officer expedient having regard to the printing facilities and staff available and the time allowed for the preparation of the register ; and references to the said provisions in other provisions of the 1944 regulations shall be construed accordingly.

(2) The said procedure may (subject to the foregoing paragraph)—

- (a) be followed as respects the whole or any part of either or both of the civilian residence register and business premises register ;
- (b) be adopted (as nearly as may be, having regard to anything already done) at any stage in the preparation of the register ;
- (c) be adopted with the modification that, where a name to which a number has been given is omitted, the number also may be omitted instead of being retained with a blank opposite it as required by sub-paragraph (a) of paragraph (3) of the said regulation three.

(3) In so far as the said procedure is not followed, the 1944 regulations shall apply as if the said provisions were omitted. [369]

17.—(1) Paragraphs (b) and (c) of regulation four of the 1944 regulations (which require distinctive marks to be placed in each register against the names of persons entitled to vote by post and persons entitled to vote by proxy) shall not apply in relation to the [annual register] or to elections for which that register is in force, and in lieu thereof the following provisions of this regulation shall have effect.

(2) In the civilian residence and business premises registers comprised in the [annual register] the name of any person entered in the absent voters list shall be marked with the letter "A".

(3) Where an election is initiated for which the [annual register] is to be in force, the name of any person registered in the service register comprised therein shall be marked with the letter "A" in any copy of that register which is used for the issue of ballot papers whether prior to or at the poll, if he or some person as his proxy is entitled to vote by post at the election :

Provided that—

(a) where only the proxy is so entitled, the marking shall be the letter "A" surrounded by a circle, thus "Ⓐ", for the purpose of indicating that a ballot paper shall not be sent to the service voter ;

(b) at a general election so initiated, sub-paragraph (2) of paragraph 2 of the First Schedule of the 1944 regulations (which requires the deletion of the letter where a [returning officer] determines not to issue a ballot paper to an absent voter as proxy for a service voter) shall not apply where the service voter is entitled to vote by post as well as by proxy under Part IV of the Act of 1945 and, in any other case, shall apply with the substitution for the letter "A" referred to therein of the letter "A" surrounded by a circle. [370]

The words "returning officer" in square brackets were substituted for the words "registration officer" by the Electoral Registration (No. 2) Regulations, 1945, reg. 11 (1), *post*.

18. [371] *This regulation, which modified the requirement of giving notice as to business premises applications, has been revoked by the Electoral Registration (No. 2) Regulations, 1945, reg. 19, post.*

19. Any application to be registered in the business premises register to be comprised in the [annual register] for a constituency in Northern Ireland may, if it is an application made in accordance with section eighteen of the Act of 1945 or with that section as extended to war workers on a form of declaration of residence, be made to the registration officer instead of to the officer specified in regulation forty of the 1944 regulations ; but any application so made to the registration officer and received by him before the [first day of August] shall be forwarded by him to the officer to whom it would have been required to be made but for this regulation and shall be dealt with by that officer as if made to him. [372].

The words "first day of August" in square brackets were substituted for the words "beginning of March" by the Electoral Registration (No. 2) Regulations, 1945, reg. 11 (2), *post*.

20.—(1) Where on the consideration of a claim or objection made with respect to the electors lists for the [annual register] the claimant or objector exercises his right to appear and be heard, an appeal shall lie to the county court from the decision of the registration officer thereon, and—

(a) subsections (2) to (5) of section fourteen of and rules 29 and 30 of the First Schedule to the Act of 1918 ;

(b) any rules of court made for the purposes of that section ; and

(c) the forms of notice of appeal prescribed by the Representation of the People Order under the said rule 29 ;

shall apply for the purpose of appeals under this regulation as they apply for the purpose of appeals under subsection (1) of that section.

(2) This regulation shall in its application to Scotland have effect with the substitution for references to the county court of references to the sheriff. [373]

21.—(1) Regulation thirty-five and paragraph (b) of regulation thirty-six of the 1944 regulations shall not apply in relation to the [annual register] or the electors lists therefor, but in lieu of those provisions the following provisions of this regulation shall have effect.

(2) The registration officer shall supply to any person copies of the [annual register] or any electors list therefor, or any part of that register or any such electors list, on payment of a fee of 1s. for any copy containing not more than 100 names and of 1d. for every additional 100 (or part of 100) names in such copy :

Provided that he shall not be obliged to supply copies of any document under this paragraph—

(a) unless he is satisfied that there are sufficient copies available after allowing for the number which may be required for the purposes of any election (including the purposes of the following paragraphs of this regulation) ;

(b) unless the whole of the document is printed.

(3) Subject to the following provisions of this regulation, the registration officer shall, without fee, supply eight copies of the [annual register] to any person appearing to him genuinely to desire them for use in connection with his own or some other person's candidature (actual or proposed) at an election for which the register is or may be in force, and for the purposes of this provision copies (to a number not exceeding two) in which one side of every sheet is left blank shall each count as two.

(4) The registration officer shall not under the last foregoing paragraph supply without fee to more than one person copies of the register in respect of the same candidature.

(5) Where before the publication of the [annual register] the registration officer is so requested, he shall supply in lieu of any copy of the civilian residence or business premises register which he would be required to supply under paragraph (3) of this regulation, a copy of the electors list therefor together, on the publication of the register, with a note (to be prepared by him for the purpose) of the differences between the electors list and the register.

(6) Where the electors lists are published without numbering the names therein, there shall be supplied in addition without fee two copies of such lists to any person who is entitled to be supplied with copies of the register or of electors lists under the provisions of paragraphs (3) and (5) of this regulation. [374]

The provisos to paragraph (2) do not apply to the supply on payment of the prescribed fee of two copies to any person who appears to the registration officer genuinely to desire them for use in connection with his candidature (actual or prospective) at a local government election for which the register is or may be in force (Electoral Registration (No. 2) Regulations, 1945, reg. 10, *post*).

Paragraphs (3), (4), (5) and (6) in their application to the annual register have effect only in relation to a person's candidature at a parliamentary election (Electoral Registration (No. 2) Regulations, 1945, reg. 10, *post*).

Absent voters and their proxies

22.—(1) Applications to be entered in the absent voters list to be included in the [annual register] shall be made as respects the period for which that register is to be in force and shall be in form A of the forms set out in Part I of the First Schedule to these regulations or a form to the like effect.

(2) So much of paragraph (2) of regulation nineteen of the 1944 regulations as requires the parts of the provisional absent voters list corresponding respectively to the civilian residence and business premises registers to be in the form to be adopted for the corresponding register, shall not apply for the purposes of the [annual register], and either part of that list may be either in that form or in such other form as appears to the registration officer to be convenient.

(3) The names of electors entitled to vote by proxy shall not be marked in the said absent voters list (except in any copy to be used for the issue of ballot papers at an election so far as may be necessary to secure that a ballot paper is not sent to a person not entitled to receive one), but against the name of any absent voter entered in the list by reason of his registration in the business premises register in pursuance of an application made in accordance with section eighteen or nineteen of the Act of 1945 there shall be placed a star together with his number in that register to indicate that he is so entered therein and, in the case of an application made in accordance with the said section nineteen, a mark "X" to indicate that a ballot paper is not to be sent except to the address (if any) recorded in accordance with the next following paragraph.

(4) The registration officer shall, at his option, either enter on the absent voters list or keep a separate record of the addresses from time to time furnished to him by the persons entered in that list as the addresses to which ballot papers are to be sent for the purpose of enabling them to vote by post. [375]

23.—(1) Absent voters' applications for the issue of a proxy paper for the purpose of elections for which the [annual register] is to be in force may be made before publication of the register by persons entered or claiming to be entered in the electors lists, as well as after the publication thereof by persons entered in the absent voters list.

(2) Paragraphs (1), (2) and (4) of regulation twenty-three of the 1944 regulations (which contain supplementary provisions as to proxy appointments not applicable where the appointment is for a single election) shall apply in relation to any such absent voter's application as aforesaid as they apply to service voters' application.

(3) Any such absent voter's application, not being an application made in accordance with section eighteen or nineteen of the Act of 1945 on a form appropriate for a service voter's application, and any notice cancelling a proxy paper issued on such an application, shall be in form B and form C respectively of the forms set out in Part I of the First Schedule to these regulations or in a form to the like effect, and any proxy paper issued on such an application shall be in form D of the said forms or a form to the like effect. [376]

24.—(1) Regulation twenty-four of the 1944 regulations shall not apply in relation to the absent voters list to be included in the [annual register], and in lieu thereof the following provisions of this regulation shall have effect.

(2) Any person entered or applying to be entered in the absent voters list for any constituency who has been appointed proxy by a service voter having a qualifying address in that constituency may make an application also to vote by post on behalf of that service voter, and any such application shall be in form A of the forms set out in Part I of the First Schedule to these regulations or a form to the like effect.

(3) Any such application shall be disregarded—

(a) if the service voter is not registered in the service register for that constituency, or is not entered in the list of proxies as having appointed a proxy; or

- (b) if the registration officer is not satisfied, from the application, of the applicant's identity with the person entered in the list of proxies as the proxy appointed by the service voter.
- (4) Any such application shall also be disregarded, where—
 - (a) it is made by a person applying to be entered in the absent voters list and the application to be so entered is not accepted by the registration officer ; or
 - (b) it is made by a person entered in the absent voters list and a proxy paper issued on that person's application is in force ;

and any such application shall be treated as cancelled if, after it is made, a proxy paper is issued on the application of the person making it.

(5) The registration officer shall keep a record of the persons from whom applications have been received and accepted by him under this regulation, and shall place the applicant's number in the absent voters list against the name of the service voter in the list of proxies.

(6) If any such application or the applicant's appointment as proxy is cancelled, the registration officer shall make the necessary changes in the record kept under the last foregoing paragraph and in the list of proxies.

(7) Any such application shall be disregarded for the purposes of any election unless received four clear days at least before the day fixed for nomination, and on the initiation of an election the registration officer shall not later than the said day enter against any such applicant's name in the copy of the absent voters list to be used for the issue of ballot papers an additional number, made up of his original number in that list and of a letter (which shall, in the case of an applicant who has made more than one such application, be different for each application), and at a general election shall after each such number insert in brackets the number in the service register of the service voter as whose proxy the applicant made the application in question. [377]

Service postal voters and their proxies

25.—(1) Any application under section twenty-five of the Act of 1945 to vote by post (including a fresh application giving a new voting address) made by a person registered in the service register comprised in the [annual register] shall be made in forms E (member of the forces), F (seaman) and G (war worker) of the forms set out in Part I of the First Schedule to these regulations or forms to the like effect ; and any such application made by a person registered in the business premises register shall also be made as aforesaid, except that—

- (a) the application shall be marked with the words “ business premises application ” or words to the like effect ; and
- (b) the applicant, instead of giving the address for which he has completed an armed forces declaration card, shall give the address of the business premises in respect of which he is so registered.

(2) The said form shall be printed on the back of an envelope and the applicant shall address the envelope to the registration officer concerned and enclose in the envelope two address labels filled in with his name and the address to which he wishes a ballot paper to be sent :

Provided that if the applicant fails to enclose a second address label filled in as aforesaid, the application shall not be invalidated by reason thereof, but if the application relates to the service register, the registration officer shall make a duplicate of the label enclosed by the applicant.

(3) Any notice cancelling such an application shall be made in the same way as an application, except that in the envelope there shall be inserted, instead of address labels filled in as aforesaid, a paper bearing the words

“ voting address cancelled ” or words to that effect and signed by the applicant.

(4) Any such application form shall be disregarded by the registration officer if the applicant is not registered (according to the form of the application)—

(a) in the service register ; or

(b) in pursuance of an application made under section eighteen or nineteen of the Act of 1945, in the business premises register ;

or if the registration officer is not satisfied from the application of the applicant's identity with a person so registered.

(5) Subject to the last foregoing paragraph the registration officer shall file all such applications relating to the service register, including the address labels, in such manner as appears to him convenient, so, however, that the persons to whom the address labels relate can be identified with the persons registered in the register, either from the order of the labels in the file or from the addresses on the envelopes or otherwise ; and where any such application is superseded by a fresh application or is cancelled or otherwise ceases to be in force, the registration officer shall make the necessary changes in the file.

(6) Where the registration officer receives such an application relating to the business premises register he shall enter the voting address given therein on the absent voters list or other record of addresses. [378]

26.—(1) The following provisions of the 1944 regulations, that is to say—

(a) regulation twenty (which relates to the service postal list) ;

(b) regulation twenty-one so far as it relates to the record of voting addresses of persons entered in the service postal list ; and

(c) in the case of a general election, paragraph (3) of regulation twenty-three (which makes provision as to a proxy appointed by a member of the forces where the appointment of the proxy is cancelled for a particular election by his applying to vote by post under subsection (3) of section nine of the Act of 1943) ;

shall not apply to any election for which the [annual register] is in force, and in lieu thereof the following provisions of this regulation shall have effect.

(2) No separate service postal list shall be prepared for any general election for which that register is in force, but—

(a) a copy of the service register in which the names of the persons entitled to vote by post have been marked as required by regulation seventeen of these regulations shall be used as the service postal list, the numbers of the names in the register being treated also as their numbers in that list ; and

(b) one of the two address labels supplied with an application to vote by post shall be treated as the record of address to which a ballot paper is to be sent, the other such label being used for the purpose of addressing the envelope.

(3) Where in any constituency a by-election is initiated for which that register is in force, the registration officer shall

(a) prepare a service postal list containing the names and qualifying addresses of members of the forces registered in the service register from whom he has before nomination day received applications under subsection (3) of section nine of the Act of 1943 for a ballot paper to be sent to an address in the United Kingdom for the purpose of voting by post at that election ;

(b) number the names in the service postal list consecutively beginning with the number one ; and

(c) enter in that list the addresses (if any) furnished to him by the persons entered therein as the addresses to which ballot papers are to be sent as aforesaid. [379]

Procedure for voting by post and counting votes

27.—(1) Part III of and the Fourth Schedule to the Representation of the People Order as applied with modifications to voting by post under the Act of 1943 by regulation twenty-five of the 1944 regulations shall apply to voting by post under that Act and the Act of 1945 at an election for which the [annual register] is in force, subject to the further modifications for which provision is made by this regulation.

(2) Any covering envelopes returned at a general election so as to be received by the returning officer within nineteen days after the close of the poll, shall be placed in a separate absent voters' ballot box from envelopes received before the close of the poll and shall be opened and checked in the same way as if received before the close of the poll; but, in the case of envelopes which appear from the declaration of identity not to have been returned by persons voting under Part IV of the Act of 1945, the contents shall be dealt with in the same way as if the declaration of identity had been rejected under the Representation of the People Order.

(3) The form of declaration of identity to be sent to a person for the purpose of voting by post under the said Part IV (but not any such form to be sent to any other person) shall have printed at the head the words "Number of elector in register: . . .", or words to that effect, and the said number shall be filled in by the returning officer, and any declaration of identity on which the said words are printed shall be rejected if, when it is returned, the said number has been defaced or removed.

Where a declaration of identity is rejected under this paragraph, it and any ballot paper accompanying it shall be dealt with in the same way as if it had been rejected under the Representation of the People Order.

(4) At a general election, after all the envelopes contained in the absent voters' ballot boxes have been checked, the returning officer shall, from the numbers filled in as aforesaid on any such declarations returned and not rejected, mark a copy of the service register and of the business premises register to indicate the persons who have voted by post under the said Part IV, and for that purpose all such declarations of identity shall, until the register has been so marked, be kept separate from other declarations of identity.

(5) The provisions of these regulations relating to the colour of a ballot paper issued for the purpose of voting as proxy for a person registered in the service register and to the marking of a slip attached to the ballot paper so issued with the number of that person in the said register shall apply to ballot papers issued at a general election for the purpose of voting by post as proxy for a person so registered, and with any such ballot paper there shall be sent out an instruction to the proxy indicating the person on whose behalf it is to be used and explaining that any vote cast thereon will be cancelled if that person himself votes by post and that the ballot paper will be rejected unless the slip containing the number remains attached thereto.

(6) At a general election, when the contents of the absent voters' ballot boxes are checked, any ballot papers issued for the purpose of voting as proxy by post—

(a) shall be rejected, if the said slip does not remain attached thereto and if so rejected shall be dealt with as if rejected under the Representation of the People Order; but

(b) if not rejected under that Order or this regulation, shall, instead of being placed in the sealed ballot box for the votes to be counted, be set aside in a separate receptacle to be dealt with as hereinafter mentioned.

(7) No ballot paper shall be sent to any person entered in the absent voters list if his name is marked therein with a mark "X" to indicate that he is registered in the business premises register in pursuance of an application

under section nineteen of the Act of 1945, except to the address (if any) entered in the absent voters list or other record of addresses, nor at a by-election to that address if it is outside the United Kingdom. [380]

28.—(1) At a general election for which the [annual register] is in force the ballot paper to be issued to any person for the purpose of voting as proxy for a person registered in the service register or the business premises register shall—

- (a) be of a different colour from ballot papers of any other description so as to be readily distinguishable from them ; and
- (b) have attached thereto, on the opposite side to the counterfoil, a perforated slip, on the back of which shall be printed the words “ number of service voter in register : ” or words to that effect ;

and the said number shall be filled in, when the ballot paper is issued, at the same time as that number (or, in the case of a proxy voting by post, the relevant number in the absent voters list in lieu of that number) is marked on the counterfoil.

(2) When the contents of the absent voters' ballot boxes have been checked, the returning officer shall proceed forthwith to the counting of the votes in accordance with the First Schedule to the Ballot Act, 1872, subject to the modifications for which provision is made by this regulation.

(3) When the number of the ballot papers in each ballot box has been counted and recorded in accordance with paragraph 34 of the said First Schedule, the coloured ballot papers shall be separated from the others, and the others shall be mixed together in accordance with the said paragraph 34 and shall be returned to one or more ballot boxes, which shall first be shown open and empty to the agents of the candidates then present and shall be sealed with the seal of the returning officer and of such of the said agents as desire to affix their seals.

(4) The said coloured ballot papers shall then be examined, and any ballot paper to which the perforated slip does not remain attached shall be rejected.

(5) The remaining coloured ballot papers, together with any such ballot papers returned by post and set aside in accordance with the last foregoing regulation, shall then be dealt with as follows :—

(a) the number on the perforated slip of each ballot paper shall be read out, and if on comparison with the marked copy of the service register or the business premises register, as the case may be, it is found that the name of the service voter has been marked in accordance with the last foregoing regulation to indicate that he has himself voted, the ballot paper shall be rejected ;

(b) any ballot paper not rejected under the foregoing paragraph shall have the perforated slip detached therefrom and shall be placed in a ballot box with the other ballot papers set aside for the votes to be counted ;

(c) the perforated slips detached as aforesaid shall be placed in a separate receptacle and shall be sealed up in a separate packet and forwarded to the Clerk of the Crown in Chancery (or in the case of Scotland to [the sheriff clerks] and in the case of Northern Ireland to the Clerk of the Crown for Northern Ireland) together with the sealed packets of ballot papers at the conclusion of the count ;

(d) while the ballot papers are being dealt with in accordance with this paragraph they shall be kept, so far as practicable, with their faces downward and all proper precautions shall be taken for preventing any person from seeing the way in which they have been marked.

(6) Any ballot paper rejected under this regulation shall be dealt with in the same way as ballot papers rejected under the said First Schedule, except

that the number of ballot papers so rejected shall be reported to the Clerk of the Crown in Chancery [the sheriff clerks] or the Clerk of the Crown for Northern Ireland, as the case may be, under two additional heads, namely—

5. proxy ballot papers not identifiable ; and
6. duplicate proxy votes.

(7) Where the checking of the coloured ballot papers in accordance with this regulation is completed on the day on which the counting of the votes begins, the counting shall thereupon be adjourned until nine o'clock in the morning on the next following day which is not a Sunday, Christmas Day or Good Friday, or a day which under the Bank Holidays Act, 1871, as amended by any subsequent enactment (including Defence Regulations) is a bank holiday in the place where the votes are being counted, and the like precautions for the security of ballot papers and other documents relating to the election shall be taken as are required by paragraph 35 of the said First Schedule to be taken during the time excluded from the counting of the votes by that paragraph. [381]

The words " the sheriff clerks," in square brackets, were substituted in paragraph (5) (c) for the words " the sheriff clerk " and were added to paragraph (6) by the Electoral Registration (No. 2) Regulations, 1945, reg. 11 (3), *post*.

29. [382] *This regulation, which made provision for registers and for voting at March 1945 elections, has been revoked by the Electoral Registration (No. 2) Regulations, 1945, reg. 19, post.*

Application of Part III

30. Nothing in this Part of these regulations shall apply to a university constituency. [383]

PART IV

MISCELLANEOUS AND GENERAL

Service Voters

31. The areas outside the United Kingdom which are postal voting areas for the purposes of Part IV of the Act of 1945 are the areas specified in the Second Schedule to these regulations. [384]

32.—(1) Every candidate at a general election to which Part IV of the Act of 1945 applies shall, on making a request to the returning officer and on supplying him with the necessary copies, be entitled to have his election address or any other document containing matter relating to the election only sent to each person entitled to vote by post in the constituency under the said Part IV by being enclosed in the same cover as the ballot paper to be sent to that person :

Provided that—

- (a) no candidate shall be entitled to have sent to any person a document measuring more than ten inches by seven and a half inches or a document which weighs, or documents which together weigh, more than a quarter of an ounce ; and
- (b) for the purpose of this regulation candidates who are, under paragraph (4) of Part V of the First Schedule to the Corrupt and Illegal Practices Prevention Act, 1883, deemed to be joint candidates shall be treated as a single candidate.

(2) In the application of this regulation to a university constituency, a reference to a voting paper shall be substituted for the reference to a ballot paper and, in the case of the combined Scottish University constituency, the reference to the returning officer shall be construed, in relation to any elector,

as a reference to the registrar of the University in the register for which that elector is registered. [385]

33.—(1) On the initiation of a general election to which Part IV of the Act of 1945 applies, the returning officer for any university constituency, or on his request the registrar of the university or of any of the universities constituting the constituency, shall not later than the day fixed for nomination mark on the copies of the register to be used at the election for checking voting papers before they are counted, or on the copies to be so used of such part of that register as may be specified in the request, the names of all persons entitled to vote by post at that election under the said Part IV.

(2) The said copies shall be used both for the purpose of rejecting proxy votes where the elector votes himself, and for distinguishing, in the case of votes received after the close of the poll, between votes cast by persons entitled to vote under the said Part IV and votes cast by other persons.

(3) Where, when the votes are being checked, it is found that a voting paper otherwise valid has been received from a person voting as proxy on behalf of a person entitled to vote by post under the said Part IV, the voting paper shall—

(a) if the name of the elector is already marked to show that a voting paper has been received from him, be treated as invalid ;

(b) if not, be set aside until the conclusion of the checking and shall then again be checked and either treated as invalid if the name of the elector is then marked as aforesaid or placed with the other papers set aside for the votes to be counted. [386]

34.—(1) It shall not be necessary for the registration officer to include in the service register for any constituency as originally published the names of any persons who, having been prisoners of war, are entitled by virtue of section twenty of the Act of 1945 to be registered therein, if their service declarations are received by him too late for them to be conveniently included as aforesaid.

(2) Subject to the following provisions of this regulation, where an election is initiated in any constituency, the registration officer shall, not later than the day fixed for nomination, prepare a supplement to the service register containing the names of any persons entitled to be registered therein as aforesaid and not included therein on the publication thereof.

(3) The said supplement shall be published in the same way as the register, and shall be treated for all the purposes of the election (including the numbering and marking of the names therein) as if it were part of the register, except that it shall be prepared in such form as appears to the registration officer to be convenient. [387]

35. A service declaration made by a member of the forces by virtue of section three of the Act of 1945 shall be attested by his commanding officer, and paragraph (1) of regulation thirty-three of the 1944 regulations shall not apply to the attestation of any such service declaration. [388]

Minor amendments and supplementary provisions

36.—(1) Notwithstanding anything in paragraph (2) of regulation eleven of the 1944 regulations, a person shall not, on the consideration of a claim to be registered, be entitled to appear and object thereto, unless—

(a) a notice of his intention to object has been sent to the registration officer ; and

(b) a copy of that notice has, not later than three days before the day fixed for the consideration of the claim, been sent by pre-paid and registered post by the objector to the claimant either at the address at which he claims to be registered or at his last known place of abode.

(2) Any notice under this regulation of intention to object to a claim shall give particulars of the grounds of the objection and shall state the electors list in which the objector's name is entered and his address as shown in that list.

(3) The time fixed by the registration officer for the consideration of a claim shall not be earlier than the fifth day after that on which it is entered on the list of claims and objections. [389]

37.—(1) Notwithstanding anything in paragraph (2) of regulation 3 of the 1944 regulations (which provides for the assigning of a separate letter to each of the three registers), it shall not be necessary for the registration officer, unless he deems it proper so to do, to assign a separate letter to the civilian residence register.

(2) Regulation 3 of the 1944 regulations shall have effect as if at the end thereof there were added the following paragraph :—

“(5) Where a polling district in Scotland is partly in one registration area and partly in another, the provisions of this regulation with respect to the numbering of the names in the register and the assigning to each polling district of a separate letter or letters shall have effect as if each part of the polling district were a separate-polling district.” [390]

38. The provisions of Part II of the First Schedule to these regulations shall have effect in relation to the forms to be used in the cases mentioned in the said Part II by persons who are members of the forces by virtue of section three of the Act of 1945 and by war workers not registered in the National Register. [391]

39. The following provisions of the 1944 regulations (which contain supplementary provisions as to matters done under or for the purposes of those regulations), that is to say, regulations sixteen, thirty-one, thirty-two, thirty-six and thirty-seven, shall have effect as if any reference therein to those regulations included a reference to these regulations. [392]

40.—(1) The following regulations (which have been superseded by provisions contained in the Fourth Schedule to the Act of 1945) are hereby revoked, that is to say, regulation nine of the Electoral Registration Regulations, 1943, and regulations seventeen and eighteen of the 1944 regulations.

(2) The definition in regulation thirty-nine of the 1944 regulations of the expression “the Act of 1943” (which is superseded by regulation three of these regulations) is hereby revoked.

(3) The following regulations or parts of regulations (which are superseded by Part II of these regulations) are hereby revoked, that is to say, the whole of the Electoral Registration Regulations, 1943, so far as not revoked by paragraph (1) of this regulation or by the 1944 regulations, regulation thirty-eight of the 1944 regulations and in regulation thirty-nine of those regulations the definitions of the expressions “war worker” and “war worker's declaration” :

Provided that this paragraph shall not affect the validity either of any national registration regulations made by virtue of Part I of the Electoral Registration Regulations, 1943, or of the 1944 regulations in so far as they were so made ; but any regulations so made shall continue in force as if made by virtue of Part II of these regulations.

(4) The following provisions of the 1944 regulations are (for the purpose of making minor amendments in those regulations) hereby revoked, that is to say—

(a) so much of paragraph (a) of regulation four (which requires every name in the service register to be marked with a letter to distinguish members of the forces, seamen and war workers) as requires the names of members of the forces to be so marked ;

- (b) in paragraph (2) of regulation ten (which requires a person claiming to be registered to give certain particulars including in the case of a claim relating to the civilian residence electors list his national registration number) the words "in the case of a claim relating to the civilian residence electors list."; and
- (c) in paragraph (4) of regulation twenty-two (which relates to the list of proxies to be kept by the registration officer) the words "and shall mark in the list with a distinctive mark the name of any proxy stated in the voter's application to be the voter's husband, wife, parent, grandparent, brother or sister," and in sub-paragraph (1) of paragraph 2 of the First Schedule (which limits the number of ballot papers to be sent to an absent voter where it appears to the returning officer from a comparison of the absent voters list with the list of proxies that an absent voter has applied to vote as proxy for more persons than he is entitled to) the words "from a comparison of the absent voters list with the list of proxies". [393]

* * * * *

FIRST SCHEDULE

PART I

Forms for [annual register]

FORM A: CLAIM TO BE PLACED ON ABSENT VOTERS LIST

To the Registration Officer for the Constituency of.....
Address.....

I, (names in full).....

being a person { *for whose registration in the Business Premises Register an
application is or has been made
*[entered] [claiming to be entered] on the Civilian Residence
electors list

for the above constituency in respect of qualifying premises at (give postal address,
stating registration unit where possible).....

hereby claim to be placed upon the absent voters list on the ground that there is
a probability that owing to my occupation (service) (employment) as.....

I may be debarred from voting at a poll at parliamentary elections held whilst the
register now being prepared is in force.

[*In the event of this claim being allowed, I also claim to vote by post in respect
of my vote as proxy for the following service voters :

Name
Qualifying address.....

Name
Qualifying address.....

Date..... Signed.....

Present address.....

Address to which ballot communications are to be {
sent (if different from address stated above) {

* Delete where not required.

NOTE 1. The names and addresses of additional service voters may be attached to this form.

2. A person cannot claim both to vote by proxy himself and to vote by post as proxy for a service voter. The claim to vote by post in respect of a vote as proxy can only be allowed in cases where the qualifying address of the person who has appointed the proxy is in the constituency in which the proxy is claiming to vote as an Absent Voter.

3. If there is a probability that at the time of an election you will be at sea or out of the United Kingdom, you may make an application to appoint a proxy to vote for you at that election. For this purpose a proxy application form should be completed at the proper time.

4. If you yourself are entitled to vote by proxy, you will not be able to vote by post on behalf of a service voter.

FORM B : PROXY APPLICATION FORM

TO THE REGISTRATION OFFICER—

The Elector *must* }
insert here his } I.....hereby
s u r n a m e and }
other names in }
full. }

state that there is a probability that I shall, at the time of a parliamentary election, be at sea or out of the United Kingdom, and that I desire to appoint as proxy to vote for me at any such election the person nominated below as First Choice or (if he or she is not qualified or is unwilling to act) the person nominated below as Second Choice.

PERSON TO BE APPOINTED PROXY. (*See Footnote.*)

1. The Elector *must* }
fill this up. } *Names of First Choice.....*
 Postal Address of First Choice.....
 Relationship, if any, of First
 Choice of Elector }
2. The Elector should }
fill this up as the } *Names of Second Choice.....*
First Choice may } *Postal Address of Second Choice.....*
be unwilling or not } *Relationship, if any, of Second*
qualified to act. } *Choice of Elector* }
3. The Elector should }
fill this up to the } *POSTAL ADDRESS OF PREMISES*
best of his ability. } *FOR WHICH ELECTOR IS REGIS-*
 TERED }

I apply for the issue of a proxy paper appointing as my proxy the person, or one of the persons nominated above.

The Form must be properly }
signed, witnessed and dated. } *Signature of Elector.....*

State nature of occupation, }
e.g., commercial traveller. } *Occupation of Elector.....*

The Witness must be a per- }
son to whom the Elector is } *Witnessed by.....*
known. }

If Witness is in the Forces, }
state number (if any), ship, } *Service or occupation of Witness.....*
unit and corps, rank, rating, }
etc. }

This need not be given if } *Postal Address of Witness*.....
 Witness is in the Forces and }
 Service particulars are given. }
Date.....

WHO MAY BE PROXIES.—A person to be proxy must be a British subject of full age and not subject to any legal incapacity. If the person appointed proxy is not the wife, husband, parent, grandparent, brother or sister of the elector, the person cannot vote as proxy for more than two electors at an election in any constituency.

FORM C : CANCELLATION OF PROXY APPOINTMENT

If you desire to cancel the appointment, you can do it by writing to the Registration Officer of the County or Borough in the following terms or to the like effect—

I,
 being registered as a Parliamentary elector in respect of the following premises*

 hereby cancel any proxy paper issued in respect of the above qualification.
 Signed
 †Witnessed by.....
Date

If the person appointed as proxy for you dies, the proxy paper will become void, and, on giving notice of the death to the Registration Officer, you can make a fresh application for the appointment of a proxy without any formal cancellation of the original paper. If you wish to change the person appointed as proxy for you it will be necessary for you to cancel your previous appointment and make a fresh application for the appointment of another proxy.

* Insert address of qualifying premises, including, if possible, the county, or borough, or parish, as the case may be.

† The witness should be some person to whom the elector is known.

FORM D : PROXY PAPER *CIVILIAN RESIDENCE *BUSINESS PREMISES } REGISTER

Constituency.....
 Polling District.....
Name.....
Address.....

the above-named person is hereby appointed as proxy for

Name of Elector.....
 who is qualified to be registered as a parliamentary elector in respect of :
Qualifying Address.....

to vote for such elector at all parliamentary elections for the above constituency during the currency of the register published on.....

* Delete where inapplicable.

Signature of Electoral Registration Officer
Date.....

NOTE 1. The person appointed as proxy should carefully preserve this paper which should if possible be produced to the Presiding Officer at the polling booth.

NOTE 2. As a proxy you must vote in person at the polling station for the qualifying address of the person who has nominated you as proxy.

FORM E : SERVICE POSTAL VOTER'S APPLICATION

I, Surname.....
 (BLOCK CAPITALS)
 Christian names.....
 Rank or Rating..... Service Number.....
 request that a ballot paper in respect of a general election be sent to me at the address
 I have written on the label within (give full postal address).
 I have previously completed an Armed Forces Declaration Card for

 (give address of civilian residence which you gave when completing AFB 2626
 S 1300B
 RAF Form 2040)
 Signed..... Date.....

FORM F : SERVICE POSTAL VOTER'S APPLICATION (SEAMEN)

I, Surname.....
 (BLOCK CAPITALS)
 Christian names.....
 Rank or Rating..... Dis. A. No.....
 request that a ballot paper in respect of a general election be sent to me via the
 address shown on the label within and on which I have inserted the particulars
 required.
 I have previously completed a Seamen's Declaration Card for

 (give address of civilian residence which you gave when completing M.N.E.R. 1).
 Signed..... Date.....

FORM G : SERVICE POSTAL VOTER'S APPLICATION (WAR-WORKERS ABROAD)

I, Surname.....
 (BLOCK CAPITALS)
 Christian names.....
 request that a ballot paper in respect of a general election be sent to me at the
 address I have written on the label within.
 (Give full postal address.)
 I have previously completed a War-Worker's Declaration Card for

 (give address of civilian residence which you gave when completing your declaration
 card).
 Signed..... Date.....

[394]

PART II

Forms of Declaration of Residence, etc.

1. The forms of declaration of residence and proxy appointment prescribed by the First Schedule to the Act of 1945 for members of the forces and war workers respectively shall in each case be printed on the front and back of the same card.

2. For the purpose of making a declaration of residence without appointing a proxy the back of the card shall be disregarded.

3. For the purpose of making a proxy appointment without at the same time making a declaration of residence the back of the card shall be filled in and on the front of the card the names and qualifying address of the person making the appointment and, in the case of a member of the forces, also his service, service number (if any) and rank or rating.

4. For the purpose of cancelling a declaration of residence without at the same time making a new declaration, the front of the card shall be filled in, except that the space for the qualifying address shall be left blank or shall be filled in with the words "address cancelled" or words to that effect.

5. For the purposes of giving notice of the cancellation of a proxy appointment the back of the card shall be filled in, except that the space for the name of the proxy shall be left blank or shall contain the words "appointment cancelled" or words to that effect, and on the front of the card the same particulars shall be given as under paragraph 3 of this Part of this Schedule are to be given in the case of a separate proxy appointment. [395]

SECOND SCHEDULE

POSTAL VOTING AREAS

The continent of Europe west and south of a line from the Baltic to the Mediterranean so drawn as to exclude Poland, Czechoslovakia, Hungary, Rumania, Bulgaria and Turkey (except Switzerland, Spain and Portugal).

Norway.

The Isle of Man, the Channel Islands, the Azores, and the islands of the Mediterranean (except the Balearics).

Palestine.

Syria.

Lebanon.

Transjordan.

Irak.

The Protectorate of Aden.

Persia.

India.

Burma.

Ceylon.

The continent of Africa.

The United States of America.

Canada.

Newfoundland.

Iceland.

[396]

THE NATIONAL REGISTRATION (WAR WORKERS) REGULATIONS, 1945

S. R. & O., 1945, No. 310

March 10, 1945

104142.

In exercise of the powers conferred on us by the National Registration Act, 1939, and by the Parliamentary Electors (War-Time Registration) Acts, 1943 and 1944, and the Representation of the People Act, 1945, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations:—

1.—(1) These regulations may be cited as the National Registration (War Workers) Regulations, 1945.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations—

"the Act" means the Representation of the People Act, 1945;

"registered person" means a person registered in the National Register.

[397]

2. The central national registration officer for England shall compile and maintain an index, to be known as the War Workers Index, of all persons,

not being registered persons, in respect of whom he receives declarations made in accordance with the provisions of Part II of the Electoral Registration Regulations, 1945. [398]

3.—(1) The following provisions of Part V (which relates to registered persons who are engaged in war work abroad) of the National Registration (Service Register) Regulations, 1944, namely—

paragraphs (3) to (7) of regulation 12,
regulation 14, except subparagraph (b) of paragraph (1),
regulations 15, 19 and 20,

shall apply to persons (not being registered persons) who have made such declarations as aforesaid, and to the declarations of such persons, as they apply to war workers and war workers' declarations as defined in those regulations, subject to the following modifications :—

- (a) references to a central national registration officer shall be construed as references to the central national registration officer for England ;
- (b) references to subparagraph (c) of paragraph (1), and to paragraph (2), of the said regulation 12 shall be construed as references to paragraph (b) of subsection (2) of section 3 of the Act ;
- (c) in subparagraph (a) of paragraph (1) of the said regulation 14 the words “ (where the organisation is a government department) ” shall be omitted ;
- (d) in paragraph (2) of the said regulation 14 for the words “ record him in the Register as having ceased to be a person engaged in war work abroad,” there shall be substituted the words “ record in the War Workers Index ” ;
- (e) in paragraph (b) of the said regulation 15 for the reference to the Register there shall be substituted a reference to the War Workers Index. [399]

4. If a person whose name is recorded in the War Workers Index becomes a registered person without ceasing to be engaged in such work as is mentioned in paragraph (b) of subsection (2) of section 3 of the Act, the declaration by virtue of which he is then so recorded shall be treated as having been made in pursuance of regulation 12 of the National Registration (Service Register) Regulations, 1944, and accordingly the person shall be recorded in the National Register as a person engaged in war work abroad. [400]

* * * * *

THE ELECTORAL REGISTRATION (NO. 2) REGULATIONS, 1945

S. R. & O., 1945, No. 705

*May 29, 1945 **

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Short title, citation, interpretation and commencement.
2. Definitions.

* These Regulations having lain before both Houses of Parliament in accordance with s. 20 of the Parliamentary Electors (War-Time Registration) Act, 1943, and s. 37 of the Representation of the People Act, 1945, were approved by resolution of the House of Lords on June 4, 1945, and by resolution of the House of Commons on June 12, 1945.

PART II

ANNUAL REGISTER

3. Application of regulations to annual register.
4. Time-table for publication of annual register, etc.
5. Notice as to business premises applications.
6. Business premises register form of application.
7. Business premises applications allowed as ratepayers register applications.
8. Business premises applications on behalf of service voters.
9. Amendment of regulation 10 of the 1944 regulations.
10. Sale of register, etc.
11. Minor amendments of 1945 regulations.
12. Forms, etc.
13. Form of ratepayers register.
14. Form of application for registration.
15. Application of regulations to ratepayers register.
16. Registration of service, etc., peers.
17. Peers voting by proxy at local government elections.
18. Marking registers.
19. Revocations.

SCHEDULE: Forms.

In pursuance of the powers conferred upon me by the Parliamentary Electors (War-Time Registration) Acts, 1943 and 1944, and the Representation of the People Act, 1945, I hereby make the following regulations :—

PART I

PRELIMINARY

1.—(1) These regulations may be cited as the Electoral Registration (No. 2) Regulations, 1945, and the Electoral Registration Regulations, 1944, the Electoral Registration Regulations, 1945, and these regulations may be cited together as the Electoral Registration Regulations, 1944 to 1945.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) These regulations shall come into force on the sixteenth day of June, nineteen hundred and forty-five. [401]

2. In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“the 1945 regulations” means the Electoral Registration Regulations, 1945;

“peer” means a person who is incapacitated by reason of his status as a peer from voting at an election of a member of the House of Commons;

and the expressions “the Act of 1943”, “the Act of 1945” and “the 1944 regulations” have respectively the meanings assigned to them by the 1945 regulations. [402]

PART II

ANNUAL REGISTER

3.—(1) For the purposes of the annual register and elections for which that register is in force, the 1944 regulations shall apply, subject to the modifications for which provision is made in Part III of the 1945 regulations and in this Part of these regulations, as if that register were prepared for a general election initiated on the first day of August.

(2) In Part III of the 1945 regulations for references to the May 1945 register there shall be substituted references to the annual register. [403]

4.—(1) The time allowed for the purposes of the annual register for the matters specified in this paragraph shall be as follows :—

- (a) applications to be registered in the business premises register and the ratepayers register shall be made before the first day of August ;
- (b) each of the electors lists shall be published as soon as practicable, and in any case not later than the twenty-ninth day of August, and with those lists (or the list first published) there shall be published the notice as to the mode of making claims and objections ;
- (c) claims and objections relating to the civilian residence, business premises and ratepayers lists shall be made within fourteen days from the publication of the relevant electors list ;
- (d) the consideration of claims and objections to each electors list shall be completed within ten days from the last day for the making thereof, save that in Northern Ireland the said consideration shall be completed as soon as practicable and, in any case, before publication of the register ;
- (e) applications to be entered in the absent voters list shall be made before the date of His Majesty's proclamation summoning a new Parliament or, in the case of a bye-election, before the date on which the writ is received, and the preparation of the absent voters list shall be completed on or before the day fixed for nomination.

(2) In the 1944 regulations, as they apply in relation to the annual register,—

- (a) reference to the time allowed by those regulations for any of the matters specified in the last foregoing paragraph shall be construed as referring to the time so specified ;
- (b) the reference in paragraph (1) of regulation fourteen to the day on which the register is required by the Act of 1943 to be published shall be construed as a reference to the fifteenth day of October ; and
- (c) the references in paragraph (3) of that regulation and in Part II of the Second Schedule to the conclusion or abandonment of the election as the time until which the register is to be kept published and copies of the relevant sections thereof are to be available for inspection in each registration unit shall be construed as references to the fifteenth day of October next following.

(3) Regulation twenty-nine of the 1944 regulations (which extends until the fifteenth day from the initiation of an election the time for publishing the notice specifying the number of electors in each polling district required by paragraph 1 of the Third Schedule to the Act of 1943, where by reason of the number of business premises electors in the constituency the number cannot be accurately estimated until their applications have been received) shall not apply to any election for which the annual register is to be in force. [404]

5. The notice inviting applications for registration in the business premises register, which is required by regulation six of the 1944 regulations to be published on the initiation of an election, shall be in Form A of the forms set out in the Schedule to these regulations or a form to the like effect, and shall be published for the purposes of the annual register on or within eight days after the qualifying date for that register. [405]

6. Application to be registered in the business premises register as a parliamentary or local government elector shall be made in Form B of the forms set out in the Schedule to these regulations or a form to the like effect. [406]

7.—(1) Where a registration officer is satisfied that an application for inclusion in the business premises register which he has rejected on the ground that it relates to land or other premises of the yearly value of less than £10 would entitle the applicant to be registered in the ratepayers register, he shall treat the application as one for inclusion in the ratepayers register as a Local Government elector.

(2) This regulation shall not apply to Scotland or Northern Ireland. [407]

8. An application made under section nineteen of the Act of 1945 by a spouse or business manager for the registration in the business premises register to be comprised in the annual register of a member of the forces or a seaman shall be accompanied by a declaration—

- (a) that he or she is the spouse of the person on whose behalf it is made, or that he or she is the manager of that person's business and either that person is not married or the spouse is a member of the forces, a seaman or a war worker abroad or is separated from that person ; and
- (b) that that person is at the time of the application a member of the forces or a seaman. [408]

9. Notwithstanding the provisions of paragraph (1) of regulation ten of the 1944 regulations (which relate to the making and recording of claims or objections), a claim may be made by a person either on his own behalf or on behalf of another person and any such claim shall be signed by the person making it. [409]

10.—(1) In their application to the annual register paragraphs (3), (4), (5) and (6) of regulation twenty-one of the 1945 regulations (which provide for the supply to candidates of free copies of the register) shall have effect only in relation to a person's candidature at a parliamentary election.

(2) Provisos (a) and (b) of paragraph (2) of the said regulation (which restrict the obligation to supply copies of the register on sale) shall not apply to the supply on payment of the prescribed fee of two copies to any person who appears to the registration officer genuinely to desire them for use in connection with his candidature (actual or proposed) at a local government election for which the register is or may be in force. [410]

11.—(1) In paragraph (3) (b) of regulation seventeen of the 1945 regulations there shall be substituted for the reference to the registration officer a reference to the returning officer.

(2) The period for the receipt by the registration officer of applications to be registered in the business premises register in Northern Ireland shall end on the first day of August, and in regulation nineteen of the said regulations that date shall be substituted for the beginning of March.

(3) In paragraph (5) (c) of regulation twenty-eight of the said regulations there shall be substituted for the reference to the sheriff clerk a reference to the sheriff clerks, and in paragraph (6) of the said regulation there shall be inserted after the words "the Clerk of the Crown in Chancery" the words "the sheriff clerks." [411]

12.—(1) The forms set out in the Schedule to these regulations, or forms to the like effect, shall be used for the purposes respectively mentioned in relation thereto in that Schedule, and are the forms prescribed for those purposes.

(2) Form A (notice as to business premises and ratepayers applications), Form B (business premises applications), and Form C (notice as to making claims and objections) shall be in substitution for the corresponding forms contained in the Third Schedule to the 1944 regulations. [412]

Ratepayers Register

13. The ratepayers register shall be framed in separate sections for each registration unit in the constituency, and regulation one of the 1944 regulations shall apply as if that regulation included a reference to the ratepayers register. [413]

14. Application to be registered in the ratepayers register as a local government elector for any local government area shall be made in Form D of the forms set out in the Schedule to these regulations or a form to the like effect. [414]

15. Subject to the preceding regulation, the provision of the 1944 regulations, as amended by the 1945 regulations and by these regulations so far as they relate to electors lists, to claims and objections and to the preparation and publication of the register, shall apply to the ratepayers list and ratepayers register in the same manner as they apply to the business premises list and business premises register. [415]

Peers

16.—(1) A peer who is a member of the forces or a seaman shall be entitled to make application to be registered in the service register as a local government elector notwithstanding that he is disqualified from making a service declaration as a parliamentary elector under section eight of the Act of 1943.

(2) A peer who is a war-worker shall be entitled to make application to be registered in the service register as a local government elector notwithstanding that he is disqualified from making a war worker's declaration as a parliamentary elector under regulation five of the 1945 regulations.

(3) The declaration of residence or any declaration cancelling such a declaration shall be in the same form as the corresponding declaration to be made by other persons for the purpose of registration as parliamentary electors in the service register, but

(a) shall be marked with the words "not available for parliamentary elections; available only for local government elections in areas containing the address mentioned" or words to the like effect;

(b) may, in the year 1945, be received by the registration officer before the beginning of August. [416]

17. A peer who is registered in the service register shall have the right to the appointment of a proxy to vote for him at a local government election as provided by section thirty-one of the Act of 1945, and the provisions of the Act of 1943 and of regulation twenty-three of the 1944 regulations relating to the appointment of service proxies shall apply accordingly. [417]

18. Where the name of a peer is included in the general register or in the electoral lists therefor as a local government elector, his name may be marked with the letter "L" to denote that he is not entitled to be issued with a ballot paper at a parliamentary election. [418]

General

19. The following provisions of the 1945 regulations are hereby revoked, that is to say—

(a) regulation thirteen, which applies the 1944 regulations to the May 1945 register;

(b) regulation fourteen, which prescribes the time-table for the publication of the May 1945 register;

(c) regulation fifteen, which allows modification of the form of the register where a division of a constituency is proposed;

- (d) regulation eighteen, which modifies the requirement of giving notice as to business premises applications ;
- (e) regulation twenty-nine, which makes provision for registers and for voting at March 1945 elections. [419]

* * * * *

SCHEDULE

FORM A : NOTICE AS TO BUSINESS PREMISES AND RATEPAYERS APPLICATIONS

REPRESENTATION OF THE PEOPLE ACTS

Constituency of.....

*Application for inclusion in the Business Premises and Ratepayers Registers
to be published on October 15th, [1945]*

Qualifying date.....June 30th

Any person wishing to be registered in the Business Premises or Ratepayers Registers and having the necessary qualifications should make an application to me in the prescribed form.

Business Premises Register.

The qualification depends on occupation of business premises of the yearly value of not less than ten pounds in the constituency on the qualifying date. Applications may be made on behalf of a person in the forces, a seaman or a war worker abroad, by the spouse or, if there is no spouse, or in certain other circumstances, by the manager of the business. In such cases the application must show that it is made by a person so entitled and that the person on whose behalf it is made is on the date of the application a member of the forces, a seaman, or a war worker abroad. A spouse or manager of business premises making an application on behalf of a person so entitled will require to inform him of the need to supply the Electoral Registration Officer with his service, etc., address to which a ballot paper should be sent, and to make application to appoint a proxy if he so desires. All other applications must be signed by applicant in person.

Ratepayers Register.

The qualification for inclusion in the Ratepayers Register depends on the occupation as owner or tenant of premises or land, the address of which is not on the qualifying date carried by the applicant on his civilian identity card, or in respect of which he has not claimed the business premises vote. An application must be signed by the applicant in person.

Forms of application for inclusion in each of these Registers may be obtained from me at the address below, and must be returned to me at that address, on or before July 31st.

Persons will be notified if their applications cannot be allowed.

Signed.....
Electoral Registration Officer.

Address.....
.....

Date.....

Note 1. A person making application to be registered in the Business Premises or Ratepayers Registers, knowing that the application contains a false statement, is liable to heavy penalties.

2. A person is not entitled to be registered as a parliamentary elector twice in the same constituency.

3. A person cannot be registered in the Ratepayers Register in respect of more than one ward of a county borough or borough (other than a metropolitan borough).

FORM B: BUSINESS PREMISES APPLICATION

REPRESENTATION OF THE PEOPLE ACTS

Application to be registered in Business Premises Register
(Parliamentary and Local Government Franchise)

To the Electoral Registration Officer for the Parliamentary Constituency of

Address,.....

1. Name of applicant	
(a) surname (in block capitals)	(a)
(b) christian names (in full)	(b)
2. Particulars of premises occupied on qualifying date (see note 1).	
(a) full postal address	(a)
(b) business, trade or profession, then carried on there by applicant, as occupier.	(b)
(c) were the premises occupied jointly with other persons? If so state—	(c)
(i) the number of joint occupiers :	(i)
(ii) whether they were partners carrying on their business, trade or profession there, and, if not partners, their names.	(ii)
3. Particulars of value of premises if separately rated—	
(a) yearly value. (The yearly value is, in England or Wales, the gross value for rating purposes: in Scotland, the gross annual value as shown in the valuation roll: in Northern Ireland, the rateable value. If not separately rated, say so, and fill in paragraph 4 below.)	(a)
(b) if yearly value is not known, state—	
(i) amount of rent paid annually, or	(b) (i)
(ii) amount of last demand for rates.	(ii)
4. Particulars of yearly value of premises if not separately rated :	
(a) if the premises are in England or Wales and are rated with other premises, specify the other premises together with the total gross value for rating purposes ;	(a)
(b) if the premises are in England or Wales but are not rated, either—	(b)
(i) give the amount of the Schedule A assessment of the premises for income tax ; or	(i)
(ii) if the premises are assessed under Schedule A with other premises, specify the other premises together with the total amount of the assessment ;	(ii)
(c) if neither sub-paragraph (a) nor sub-paragraph (b) applies, state shortly nature and extent of premises and the annual rental paid (exclusive of payments for service or furniture).	(c)
5. (a) Has any other application been made for registration in the business premises register to which this application relates (see note 3) ?	(a)
(b) If so, give the address or addresses of the premises in respect of which the other application or applications were made.	(b)

6. If the applicant is on the qualifying date entitled to be registered in a service register, state address given on declaration card (*see note 3*).

7. State the address entered on your civilian identity card on the qualifying date (*see note 3*).

DECLARATION

I declare that the above particulars are, to the best of my knowledge and belief, true and correct in all respects ; that on the qualifying date I was a British subject and had attained the age of twenty-one years.

I apply to be registered in the Business Premises Register.

Signature.....

Date.....

NOTES

1. You are required to fill up the whole of this form so far as applicable to your case. The qualifying date is..... This application must be received by the Electoral Registration Officer at the address given at the top of the form on or before.....

2. Any person making an application to be registered in the Business Premises Register, knowing that the application contains a false statement, is liable to heavy penalties.

3. A person is not entitled to be registered as an elector twice in the same constituency.

LIVERYMEN

If, in a constituency where a list of liverymen is prepared, the applicant is qualified and wishes to be entered on that list, that fact should be stated below (with particulars of the qualification) and the statement signed by the applicant.

Qualification.....

Signature.....

FORM C : NOTICE AS TO CLAIMS AND OBJECTIONS

REPRESENTATION OF THE PEOPLE ACTS

Notice as to the making of Claims and Objections

Civilian Residence, Business Premises and Ratepayers Electors Lists

Constituency of.....

Registration Units

I hereby give notice that claims and objections in respect of the Civilian Residence electors lists for the registration units mentioned above must be received by me at the address below on or before..... and that claims and objections in respect of the Business Premises and Ratepayers electors lists for those units must be received on or before.....

No special form is required for this purpose but :—

1. A claim should set out clearly the qualification which it is considered exists and the qualifying address in respect of which the qualification is claimed. If a claim relates to the Civilian Residence electors list, the claimant's national registration number must be given. An objection must specify clearly the grounds on which it is made. A claim must be signed by or on behalf of the claimant, and an objection must be signed by the person objecting.

2. As an objection can only be made by a person who is himself on one of the electors lists, the name of the list in question and the qualifying address of the objector must be set out in the notice of objection.
3. A claim in respect of the Business Premises or Ratepayers electors lists can only be made if an application for registration has been received by the Registration Officer from the claimant within the prescribed time.
4. If a notice is sent by post, postage must be prepaid.

Signed.....

Electoral Registration Officer.

Address.....

Date.....

NOTE.—Except where the registration officer acts for part only of the constituency, it shall be sufficient for the notice to refer to “all registration units,” without further specifying them.

FORM D : RATEPAYERS REGISTER APPLICATION
(ENGLAND AND WALES)

REPRESENTATION OF THE PEOPLE ACTS

*Application to be registered in the Ratepayers Register
(Local Government Franchise)*

To the Electoral Registration Officer for the Parliamentary Constituency of

Address.....

1. Applicant's names in full : (a) Surname (capitals) (b) Other names	(a) (b)
2. Full postal address of premises (or land) for which applicant applies to be registered.	
3. (a) Whether applicant on the qualifying date (<i>see</i> note 3) occupied the said premises (or land) as owner or tenant (tenant includes lodger in a room or rooms let unfurnished, or, in the case of a dwelling house, a person who inhabits it by reason of employment). (b) If, so, give description, <i>e.g.</i> , dwelling house, office, shop, unfurnished lodgings, dwelling house inhabited by employment, market garden, factory, etc.	(a) (Yes or No) (b)
4. In case of joint occupation of premises (or land) state (a) the number of joint occupiers (b) whether they were partners carrying on their profession, trade or business there, and, if not partners, their names.	(a) (b)
5. Give the address entered on the applicant's civilian identity card on the qualifying date (<i>see</i> note 2).	
6. If application has been made for registration in a Business Premises register in respect of the same qualifying date give address or addresses of premises concerned (<i>see</i> note 2).	

The particulars overleaf are true and correct in all respects. I am a British subject and had attained the age of 21 years on the qualifying date; and I make application for the local government franchise to which such particulars entitle me.

Signature of applicant.....

Address of applicant.....

Date.....

NOTES

1. A person who, on the qualifying date, occupies land or premises as owner or tenant, is entitled to be registered as a local government elector for the local government area or areas concerned, **IF HE IS NOT ENTITLED TO THE PARLIAMENTARY VOTE IN RESPECT OF SUCH PREMISES, i.e. :—**

(a) If his civilian identity card does not on the qualifying date carry the address of the premises in question (registration in the civilian residence register will entitle a person to the local government as well as the parliamentary vote) *or*

(b) If he is not entitled to claim the business premises vote in respect of his occupation of such premises (*e.g.*, because the annual value is less than £10 or because he is a peer) *or*

(c) If he is not registered in the service register in respect of such premises.

2. A person cannot however be registered in more than one ward of a county borough or borough, not being a metropolitan borough.

3. The qualifying date is..... This application must be received by the Electoral Registration Officer at the address given at the top of the form, on or before.....

4. A peer who is disqualified from voting at a parliamentary election is not required to make application to be registered as a local government elector in respect of the address entered on his identity card on the qualifying date. He is however required to make application on this form if his case falls under (a), (b) or (c) of Note 1.

5. Any person making an application to be registered as a local government elector, knowing that the application contains a false statement, is liable to heavy penalties.

FORM D : RATEPAYERS REGISTER APPLICATION (SCOTLAND)

REPRESENTATION OF THE PEOPLE ACTS

Application to be registered in the Ratepayers Register

(Local Government Franchise)

To the Electoral Registration Officer for.....

Address.....

1. Applicant's names in full	Surname (capitals)..... Other names.....
2. Full postal address or addresses of premises or land for which applicant applies to be registered.	
3. (a) Description of said premises or land, <i>e.g.</i> dwelling-house, office, shop, lodgings (stating whether furnished or unfurnished); dwelling-house inhabited by virtue of service, market garden, factory, etc. (b) Gross annual value of said premises or land if shown in Valuation Roll.	

<p>4. (a) Qualification in respect of which applicant applies to be registered, i.e. owner, inhabitant, occupier or lodger.</p> <p>(b) If application is in respect of lodgings, give name of householder.</p> <p>(c) If application is in respect of a part of a house occupied as a separate dwelling, give name of principal tenant or owner of house as shown in the Valuation Roll.</p>	
<p>5. Had you that qualification on the qualifying date ?</p>	(Yes or No)
<p>6. In case of joint ownership or occupation of premises or land, state the number of joint owners, partners or occupiers.</p>	
<p>7. Give the address and identity number entered on the applicant's identity card on the qualifying date.</p>	
<p>8. If application has been made for registration in a Business Premises register in respect of the same qualifying date, (see note 2) give address or addresses of premises concerned.</p>	

I am a British subject and had attained the age of 21 years on the qualifying date. The above particulars are true and correct in all respects ; and I make application for the local government franchise to which I am entitled.

Signature of applicant.....

Address of applicant.....

Date.....

NOTES

1. A person who on the qualifying date is—

- (i) the owner of lands and heritages of the yearly value of not less than £10, or
- (ii) the occupier as tenant of lands and heritages of the yearly value of not less than £10, or
- (iii) the inhabitant occupier as owner or tenant of a dwelling-house, or
- (iv) the occupier of lodgings of the yearly value if let unfurnished of not less than £10, or
- (v) the inhabitant occupier by virtue of any office, service or employment of a dwelling-house which is not inhabited by the person in whose service he or she is in such office, service or employment

is entitled to be registered in the ratepayers register for a burgh or for an electoral division (or ward thereof) of a county, if he is not entitled to a parliamentary vote in respect of premises in that burgh, electoral division or ward ; i.e. if—

- (a) his civilian identity card does not on the qualifying date carry the address of premises in the burgh, electoral division or ward ; or—
- (b) he has not claimed the business premises vote in respect of his occupation of any premises in the burgh, electoral division or ward ; or—
- (c) he is not registered in the Service Register in respect of premises in the burgh, electoral division or ward.

2. The qualifying date is..... This application must be received by the Electoral Registration Officer at the address given at the top of the form, on or before.....

3. A peer who is disqualified from voting at a parliamentary election is not required to make application to be registered as a local government elector in respect of the address entered on his identity card on the qualifying date. He is however required to make application on this form in respect of a qualification for any other address.

4. Any person making an application to be registered as a local government elector, knowing that the application contains a false statement, is liable to heavy penalties. [420]

THE LOCAL ELECTIONS (SUPPLEMENTARY PROVISIONS) ORDER, 1945

S. R. & O., 1945, No. 706

June 13, 1945

In pursuance of the powers conferred upon me by section twelve of the Representation of the People Act, 1945, I hereby make the following Order :—

Preliminary

1.—(1) This Order may be cited as the Local Elections (Supplementary Provisions) Order, 1945.

(2) This Order shall not extend to Scotland.

(3) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [421]

2. In this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“ the Act of 1939 ” means the Local Elections and Register of Electors (Temporary Provisions) Act, 1939 ;

“ the Act of 1945 ” means the Representation of the People Act, 1945 ; and

“ the appropriate date ” means—

(a) in relation to a borough, the first day of November, 1945 ;
and

(b) in relation to a district, the fifteenth day of April, 1946.

[422]

Retirement of Councillors

3. In any borough where the first election of councillors under the terms of a charter of incorporation would, if the Act of 1939 had not been passed, have been held on the first day of November, 1939, the councillors of the borough to retire on the appropriate date under subsection (2) of section five of the Act of 1945 (which relates to the resumption of annual elections) shall be all the councillors thereof. [423]

4. In any borough where under the terms of a charter of incorporation the first election of councillors was held in the year 1936, 1937 or 1938, section five of the Act of 1945 shall apply with the following modification, namely—

The councillors to retire on the appropriate date under subsection (2) (a) of the said section shall be those councillors elected at such first election who would, if the Act of 1939 had not been passed, have retired on the first day of November, 1939, and any councillor subsequently elected under the Local Government Act, 1933, to fill a casual vacancy in the office of any such councillor. [424]

5. Where in any borough or district to which a rotation in thirds provision, as defined by subsection (1) of section five of the Act of 1945, applies an election was held in the year 1936, 1937, 1938 or 1939 of all or any of the councillors of the borough or of any ward thereof, or in the year 1937, 1938 or 1939 of all or any of the councillors of the district or of any ward thereof, consequent upon any Order in Council (other than an Order granting a charter of incorporation) or Order made under or confirmed by any Act passed before the first day of August, 1939, section five of the Act of 1945 shall apply with the following modification :—

The councillors to retire on the appropriate date under subsection (2) (a) of the said section shall be those councillors elected at any such election as aforesaid who would, if the Act of 1939 had not been passed, have retired, in the case of a borough, on the first day of November, 1939, or, in the case of a district, on the fifteenth day of April, 1940, and any councillor subsequently elected under the Local Government Act, 1933, to fill a casual vacancy in the office of any such councillor. [425]

6.—(1) Except as provided in Article 8 of this Order, where in any borough or district to which a rotation in thirds provision applies the councillors in any ward are less than three in number, there shall retire on the appropriate date for the purposes of subsection (2) (a) of section five of the Act of 1945—

- (a) if there is one councillor, that councillor ;
- (b) if there are two such councillors, the councillor who would, if the Act of 1939 had not been passed, have retired first or any councillor subsequently elected under the Local Government Act, 1933, to fill a casual vacancy in the office of such councillor.

(2) Except as provided in Article 8 of this Order, where by reason of the foregoing paragraph of this Article or of subsection (2) (b) of section five of the Act of 1945 (which provides for the retirement of councillors elected since the thirty-first day of October, 1939, to fill casual vacancies) it is necessary for the purpose of securing that one-third (as near as may be) of the whole number of councillors of the borough or district shall retire annually to determine which (if any) of the councillors from among those elected on the appropriate date to represent wards returning less than three members of a borough or district shall retire on the first or second anniversaries of the appropriate date, the order of retirement shall be determined by lots drawn at such meeting of the council as the council may determine, the draw being conducted under the direction of the person presiding at the meeting.

(3) Except as provided in Article 8 of this Order, where in any district to which a rotation in thirds provision applies the councillors in any ward consist of a number exceeding three which number is not divisible by three—

- (a) there shall retire on the appropriate date for the purposes of subsection (2) (a) of section five of the Act of 1945 the councillor or councillors who would, if the Act of 1939 had not been passed, have retired on the fifteenth day of April, 1940 ; and

- (b) the number of councillors to retire under subsection (3) of the said section five on the first and second anniversaries of the appropriate date shall be on the first anniversary the same number as would have retired on the fifteenth day of April, 1941, and on the second anniversary the same number as would have retired on the fifteenth day of April, 1942, if an election had been held under the Local Government Act, 1933, in each of those years. [426]

7. Except as provided in Article 8 of this Order, where in any ward (not being a ward to which sub-paragraph (b) of paragraph (3) of the last foregoing Article relates) of a borough or district to which a rotation in thirds provision applies there remains in office only one councillor who does not retire on the appropriate date under subsection (2) of section five of the Act of 1945 as modified by this Order, that councillor shall retire on the first anniversary of the appropriate date. [427]

8. Nothing in Articles 6 and 7 of this Order shall apply to a rural district in which the order of retirement of the councillors is determined in accordance with directions given under subsection (5) of section thirty-five of the Local Government Act, 1933, by the county council. [428]

9. Where a councillor is elected to fill a casual vacancy in the office of a councillor who came into office on the appropriate date, he shall, for the purposes of subsection (3) of section five of the Act of 1945 (which determines the rotation of retirement of councillors on the first and second anniversaries of the appropriate date), be deemed to have been elected by the same number of votes as that councillor or, if the election of that councillor was not contested, to have been elected unopposed at that election. [429]

10. Where in any borough or district or in any ward of a borough or district an election would, if the Act of 1939 had not been passed, have been held consequent upon any Order in Council (including an Order granting a charter of incorporation) or Order made under or confirmed by any Act passed before the first day of August, 1939,—

- (a) the election shall be held, in the case of a borough, on the appropriate date and, in the case of a district, on a day appointed in accordance with the Urban District Councillors Election Rules, 1934, or the Rural District Councillors Election Rules, 1934, prior to the appropriate date; and
- (b) the provisions of the Order in Council or other Order determining the rotation of subsequent retirement shall, with the necessary change of dates, determine the number of councillors who shall retire on the first, second and third anniversaries of the appropriate date. [430]

Retirement of Aldermen

11. In any borough where the first election of aldermen was held under the provisions of section five of the Act of 1939 (which relates to newly chartered boroughs) all the aldermen shall retire on the ninth day of November, 1945, and an election of aldermen shall be held at the annual meeting of the council held on the said date, and the aldermen so elected shall retire as to one half (as near as may be) of the whole number who are elected by the smaller number of votes on the ninth day of November, 1948, and as to the remaining aldermen on the ninth day of November, 1951:

Provided that if any aldermen have obtained at such election an equal number of votes or have been elected without a poll, the aldermen who are to retire at the times specified in this Article shall be determined by lot by the mayor or chairman at the annual meeting of the council at which such election is held. [431]

12. In its application to any borough where the first election of aldermen was held in the year 1936, 1937 or 1938, under the terms of a charter of incorporation, subsection (2) of section four of the Act of 1945 (which relates to the resumption of the election of aldermen) shall apply as if for the words "the ordinary election of aldermen held last before the commencement of this Act" there were substituted the words "the first election of aldermen"; and accordingly those aldermen who would have been the first to retire after that election and any aldermen elected to fill casual vacancies in the office of any such aldermen under any provision of the Local Government Act, 1933, or under section one of the Act of 1939 shall retire at the annual meeting of the borough council to be held in the year 1945, and the remaining aldermen shall retire at the annual meeting to be held in the year 1948; and ordinary elections of aldermen shall be held under the Local Government Act, 1933, at each of the said annual meetings. [432]

13.—(1) Where in any borough an election of aldermen (other than an ordinary election or a first election under a charter of incorporation) was held in the year 1936, 1937, 1938 or 1939, consequent upon an Order made under any enactment, the rotation of retirement of aldermen elected at such election shall be determined in accordance with the rotation provided by such Order, thereby securing that on the resumption of elections one half as near as may be of the whole number of aldermen shall retire at the annual meetings to be held in November, 1945, and November, 1948, respectively:

[Provided that where only one alderman was elected at such election held in any of the said years and the whole number of aldermen of the borough is uneven, he shall retire at the annual meeting of the council to be held in November, 1945.]

[(2) Where in any borough an election of aldermen would, if the Act of 1939 had not been passed, have been held in November, 1939, consequent upon an Order in Council (other than an Order granting a charter of incorporation) made in that year—

- (a) the election shall be held at the annual meeting of the council to be held in November, 1945; and
- (b) the rotation of subsequent retirement of the aldermen elected consequent upon the Order in Council shall be such as to secure that one half, as near as may be, of the whole number of aldermen of the borough shall retire at the annual meeting of the council to be held in November, 1948, and of the aldermen so elected those elected by the smaller number of votes shall retire at that meeting:

Provided that if any aldermen have obtained at such election an equal number of votes or have been elected without a poll, the aldermen who are to retire at the annual meeting specified in this sub-paragraph shall be determined by lot by the mayor or chairman at the annual meeting of the council at which such election is held.] [433]

The proviso in square brackets to paragraph (1) was substituted for the original proviso, which differed only in the absence of the words "and the whole number of aldermen of the borough is uneven," and paragraph (2) was added, by the Local Elections (Supplementary Provisions) (No. 2) Order, 1945, *post*.

Miscellaneous

14. Notwithstanding the provisions of section 28 (2) of the Local Government Act, 1933 (which relates to the appointment by the council of a borough at the annual meeting of returning officers for an election of councillors for wards), the appointment of an alderman or, if the number of aldermen in office at that time is less than the number of wards, of a councillor, not being a councillor or local government elector for the ward, to be returning officer

for an election of councillors in a ward to be held on the first day of November, 1945, in accordance with the provisions of section five of the Act of 1945, may be made at an ordinary meeting of the council, if such appointment has not already been made at the annual meeting :

Provided that if, in a borough to which Articles 3 and 11 of this Order apply, the alderman or councillor so appointed is himself a candidate for election to the office of councillor in another ward of the borough at the said election, the returning officer shall be the mayor or a person appointed by the mayor. [434]

[14a. If, in any borough to which Articles 3 and 11 of this Order (which relate to boroughs incorporated in the year 1939) apply, the mayor, deputy mayor (if any) and all the aldermen are unable, whether by reason of their being candidates for election as councillors of the borough or otherwise, to act at the ordinary elections of councillors to be held in the year 1945 for the purposes of paragraphs 5 and 6 of Part I of the Second Schedule to the Local Government Act, 1933 (which relate to the decision as to validity of nomination of candidates and publication thereof), the functions of the mayor under the said paragraphs shall in relation to those elections be discharged by a person appointed by the mayor.] [435]

This Article was added by the Local Elections (Supplementary Provisions) (No. 2) Order, 1945, *post*.

15. For securing the resumption of elections of university representatives as aldermen and councillors of the councils of the county borough of Oxford and of the borough of Cambridge, sections four and five of the Act of 1945 shall apply as if for references to the appropriate Act in the said section four and for references to the Local Government Act, 1933, in subsections (1), (2) and (4) of the said section five there were substituted references to the City of Oxford Order scheduled to the Local Government Board's Provisional Orders Confirmation Act, 1889, and to the Cambridge Order scheduled to the Local Government Board's Provisional Orders Confirmation (No. 15) Act, 1889, and for the purposes of removing doubts it is hereby declared that any election of a university councillor to fill a vacancy arising otherwise than by effluxion of time, which was held during the period when the Act of 1939 was in force, shall be deemed to have been an election under the proviso to section one of the said Act and that any university councillor in office at the commencement of that Act was continued in that office unless he vacated it otherwise than by effluxion of time. [436]

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THE REGISTRATION OFFICERS ORDER, 1945

S. R. & O., 1945, No. 707

June 12, 1945

Whereas by subsection (2) of section 12 of the Representation of the People Act, 1918, it is provided that where the registration area is a parliamentary county and is coterminous with, or wholly contained in, one administrative county, the clerk of the county council, and where the registration area is a parliamentary borough and is coterminous with, or wholly contained in, one municipal borough, the town clerk of the borough, shall be the registration officer for the area, and that in any other case such clerk of the county council, or town clerk, shall be the registration officer for the area as the Local Govern-

ment Board may by order direct, subject to any conditions which may be made by the order as to the appointment of deputies for any part of the area :

And whereas by the Ministry of Health (Registration and Elections, Transfer of Powers) Order, 1921, the power of making orders under the said subsection (2) was transferred to the Secretary of State :

And whereas in consequence of the House of Commons (Redistribution of Seats) Order, 1945, alterations have been effected in the boundaries of certain parliamentary counties and parliamentary boroughs and the said parliamentary counties and parliamentary boroughs are sometimes not coterminous with, or wholly contained in, one administrative county or one municipal borough, respectively :

And whereas each of the new parliamentary boroughs named in the first column of the Schedule to this Order is a registration area which is not coterminous with, or wholly contained in, one municipal borough :

Now therefore I, in pursuance of the powers in that behalf conferred on me, by this Order direct as follows :—

1. Except as hereinafter provided, where in consequence of the House of Commons (Redistribution of Seats) Order, 1945, alterations have been effected in the boundaries of a parliamentary county or parliamentary borough and either (i) the parliamentary county is not coterminous with, or wholly contained in, one administrative county, or (ii) the parliamentary borough is not coterminous with, or wholly contained in, one municipal borough, the clerk of the council who, prior to the making of the said Order, was the registration officer of the registration area consisting of that parliamentary county or parliamentary borough shall be the registration officer of the registration area as so altered. [437]

2. In each of the registration areas named in the first column of the Schedule to this Order the person for the time being holding the office of town clerk specified in the second column of the said Schedule opposite to the name of the registration area shall, until it is otherwise directed by order, be the registration officer. [438]

3. This Order may be cited as the Registration Officers Order, 1945. [439]

SCHEDULE

Name of Parliamentary Borough	Registration Officer
Altrincham and Sale ..	The Town Clerk of the Borough of Altrincham.
Dartford	The Town Clerk of the Borough of Dartford.
Mitcham	The Town Clerk of the Borough of Mitcham.
Southall	The Town Clerk of the Borough of Southall.
Woodford	The Town Clerk of the Borough of Wanstead and Woodford.

* * * * *

THE RETURNING OFFICERS ORDER, 1945

S. R. & O., 1945, No. 708

June 12, 1945

Whereas by section 28 of the Representation of the People Act, 1918, it is provided, amongst other things, that the returning officer at a parliamentary

election shall be in the case of a parliamentary county which is not coterminous with, or wholly contained in, one administrative county, and in the case of a parliamentary borough which is not coterminous with, or wholly contained in, one municipal borough or one urban district, such sheriff, mayor or chairman of the council as may be designated for the purpose by the Local Government Board :

And whereas by the Ministry of Health (Registration and Elections, Transfer of Powers) Order, 1921, the power of designation under the said section 28 was transferred to the Secretary of State :

And whereas in consequence of the House of Commons (Redistribution of Seats) Order, 1945, alterations have been effected in the boundaries of certain parliamentary counties and parliamentary boroughs, and the said parliamentary counties are sometimes not coterminous with, or wholly contained in, one administrative county and the said parliamentary boroughs are sometimes not coterminous with, or wholly contained in, one municipal borough or one urban district :

And whereas each of the new parliamentary boroughs named in the first column of the Schedule to this Order is not coterminous with, or wholly contained in, one municipal borough or one urban district :

Now therefore I, in pursuance of the powers in that behalf conferred on me, by this Order designate as follows :—

1. Except as hereinafter provided, where in consequence of the House of Commons (Redistribution of Seats) Order, 1945, alterations have been effected in the boundaries of a parliamentary county or parliamentary borough, and either (i) the parliamentary county is not coterminous with, or wholly contained in, one administrative county, or (ii) the parliamentary borough is not coterminous with, or wholly contained in, one municipal borough or one urban district, the sheriff, mayor or chairman of the council who, immediately before the making of the said Order, was the returning officer at a parliamentary election for the parliamentary county or parliamentary borough, shall be the returning officer at a parliamentary election for that parliamentary county or parliamentary borough, as the case may be, as altered. [440]

2. In the case of each of the parliamentary boroughs named in the first column of the Schedule to this Order the returning officer at a parliamentary election shall, until other designation be made, be the person for the time being holding the office of mayor specified in the second column of the said Schedule opposite to the name of the parliamentary borough. [441]

3. This Order may be cited as the Returning Officers Order, 1945. [442]

SCHEDULE

Name of Parliamentary Borough	Returning Officer
Altrincham and Sale ..	The Mayor of the Borough of Altrincham.
Dartford	The Mayor of the Borough of Dartford.
Mitcham	The Mayor of the Borough of Mitcham.
Southall	The Mayor of the Borough of Southall.
Woodford	The Mayor of the Borough of Wanstead and Woodford.

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TREASURY ORDER PRESCRIBING SCALE OF MAXIMUM CHARGES OF RETURNING OFFICERS AT PARLIA- MENTARY ELECTIONS IN ENGLAND AND WALES

S. R. & O., 1945, No. 713

June 11, 1945

In pursuance of the powers conferred upon Us by Section 29 of the Representation of the People Act, 1918, We being Two of the Lords Commissioners of His Majesty's Treasury hereby prescribe that the Returning Officer shall be entitled in respect of the conduct of Parliamentary Elections other than University Elections in England and Wales to his reasonable charges not exceeding the sums hereinafter set forth, provided that the charges for disbursements are in no case to exceed the sums actually and necessarily paid or payable.

This scale will be applicable to elections conducted after the date of this Order, subject to any alterations which may from time to time be made.

A.—For Services of Returning Officers

I.—In a Contested Election.

£ s. d.

(i) Fee for conducting the election and generally performing all the duties which a returning officer is required to perform under any enactments relating to Parliamentary Elections (other than any duties in connection with voting by persons entitled to vote by post for which a separate fee is prescribed by this scale) :—

(1) For every constituency in a Parliamentary County :—

(a) If the number of registered Parliamentary electors does not exceed 30,000	50	0	0
(b) For each additional 1,000 electors or fraction thereof beyond 30,000 up to 35,000 an additional	0	16	0
(c) For each additional 1,000 electors or fraction thereof beyond 35,000 up to 40,000 an additional	0	12	0
(d) For each additional 1,000 electors or fraction thereof beyond 40,000 up to 45,000 an additional	0	10	0
(e) For each additional 1,000 electors or fraction thereof beyond 45,000 up to 60,000 an additional	0	8	0
(f) For each additional 1,000 electors or fraction thereof beyond 60,000 an additional	0	7	0

(2) For every constituency in a Parliamentary Borough at the election of one member for the constituency :—

(a) If the number of registered Parliamentary electors does not exceed 30,000	41	0	0
(b) For each additional 1,000 electors or fraction thereof beyond 30,000 up to 35,000 an additional	0	16	0
(c) For each additional 1,000 electors or fraction thereof beyond 35,000 up to 40,000 an additional	0	12	0
(d) For each additional 1,000 electors or fraction thereof beyond 40,000 up to 45,000 an additional	0	10	0
(e) For each additional 1,000 electors or fraction thereof beyond 45,000 up to 60,000 an additional	0	8	0
(f) For each additional 1,000 electors or fraction thereof beyond 60,000 an additional	0	7	0

(3) For a constituency in a Parliamentary Borough at the election of two members for the constituency :—

(a) If the number of registered Parliamentary electors does not exceed 50,000	52 10 0
(b) For each additional 1,000 electors or fraction thereof beyond 50,000 up to 60,000 an additional	0 16 0
(c) For each additional 1,000 electors or fraction thereof beyond 60,000 up to 80,000 an additional	0 12 0
(d) For each additional 1,000 electors or fraction thereof beyond 80,000 up to 100,000 an additional	0 8 0
(e) For each additional 1,000 electors or fraction thereof beyond 100,000	0 6 0

(ii) Additional fee for services in connection with the despatch and receipt of the ballot papers of persons entitled to vote by post.

For every constituency in a Parliamentary County or a Parliamentary Borough :—

(a) If the number of persons entitled to vote by post in the constituency does not exceed 1,000 ..	Nil
(b) If the number exceeds 1,000 but does not exceed 2,000	9 0 0
(c) If the number exceeds 2,000, for each additional 50 or fraction thereof, an additional	0 1 0

[443]

II.—In an Uncontested Election.

One-fourth of the sum allowed for a contested election.

N.B.—Where the general duties of a returning officer are performed by an acting returning officer the above fees shall be paid to such acting returning officer and shall include any payments made to a deputy acting returning officer for the discharge of any duties of an acting returning officer which may be assigned to him. [444]

B.—Disbursements

I.—In a Contested Election.

	In a Constituency in a Parliamentary County	In a Constituency in a Parliamentary Borough
	£ s. d.	£ s. d.
1. For the Presiding Officer employed at a polling station, to include all expenses other than any travelling expenses authorised by this scale	3 10 0	3 10 0
If, however, the (normal 12) polling hours are extended there may be paid—		
(a) For an extension of one hour an additional fee not exceeding	0 6 0	0 6 0
(b) For an extension of two hours an additional fee not exceeding	0 12 0	0 12 0

	In a Constituency in a Parliamentary County	In a Constituency in a Parliamentary Borough
<i>or</i>	£ s. d.	£ s. d.
At a General Election initiated before the 31st December, 1945 :		
For the Presiding Officer employed at a polling station, to include all expenses other than any travelling expenses author- ised by this scale, irrespective of the length of the poll	5 5 0	5 5 0
In addition to either of the above fees a further sum not exceeding 10s. 6d. may be paid to not more than one Presiding Officer employed at any one "polling place" provided that the total number of voters assigned to such "polling place" is not less than 3,000 (see note * below).		
2. For one Clerk at each polling station where not more than 600 voters are assigned to such station	1 10 0	1 10 0
For an additional clerk at a polling station for every number of 600 voters or fraction thereof beyond the first 600 assigned to such polling station (see note * below) . .	1 10 0	1 10 0
If the (normal 12) polling hours are extended there may be paid to each clerk employed—		
(a) For an extension of one hour an additional fee not exceeding	0 3 0	0 3 0
(b) For an extension of two hours an additional fee not exceeding	0 6 0	0 6 0
<i>or</i>		
At a General Election initiated before the 31st December, 1945 :		
For one clerk at each polling station when not more than 500 voters are assigned to such station, irrespective of the length of the poll	3 0 0	3 0 0
For an additional clerk at a polling station, for any number of 500 voters or fraction thereof beyond the first 500 assigned to such polling station, irrespective of the length of the poll (see note * below)	3 0 0	3 0 0
3. For the remuneration of persons engaged in counting the votes—		
(a) If the number of registered Parlia- mentary electors in the constituency does not exceed 20,000 a total sum of	18 0 0	18 0 0
(b) If the number of electors exceeds 20,000 for each additional 2,000 electors or fraction thereof, an addi- tional	1 0 0	1 0 0

* In calculating the number of voters assigned to any "polling place" or "polling station" persons on the "absent voters" list and service voters entitled to vote by post must be excluded *except* that at elections to which Part IV of the Representation of the People Act, 1945 (8 & 9 Geo. 6, c. 5) applies, service postal voters need not be excluded for this purpose.

	In a Constituency in a Parliamentary County	In a Constituency in a Parliamentary Borough
<i>or</i>	£ s. d.	£ s. d.
In the case of elections at which the count is extended to two days under Part IV of the Representation of the People Act, 1945.		
(c) If the number of registered Parliamentary electors in the constituency does not exceed 20,000 a total sum of	30 0 0	30 0 0
(d) If the number of electors exceeds 20,000 for each additional 2,000 electors or fraction thereof, an additional	1 10 0	1 10 0
In the case of an election for the return of two members for one constituency the allowance under 3 (a) and (b) may be increased by not more than 25 per cent. <i>or</i> the allowance under 3 (c) and (d) by not more than 20 per cent. provided that in each case not less than 4 candidates are nominated.		
4. For the remuneration of persons employed for the purpose of dispatching and receiving the ballot papers of persons entitled to vote by post—		
(a) If the number of persons entitled to vote by post does not exceed 200	3 0 0	3 0 0
(b) If the number of persons entitled to vote by post exceeds 200 for each additional 100 or fraction thereof an additional	1 0 0	1 0 0
5. For all clerical and other assistance employed by the acting Returning Officer or deputy acting Returning Officer for the purposes of the election, including any services for which payment is not otherwise authorised by this scale.		
If the number of registered Parliamentary electors—		
(a) Does not exceed 30,000	42 0 0	36 0 0
(b) Exceeds 30,000 for each additional 1,000 or fraction thereof, an additional	1 5 0	1 3 0
6. Returning or acting Returning Officer's or deputy acting Returning Officer's travelling expenses where necessary to make arrangements for the poll or otherwise, in connection with the conduct of the election.	First-class railway expenses or, where railway service is not available, the actual and necessary cost with subsistence allowance of £1 a night for not more than five nights when necessarily absent from home on account of duty.	

	In a Constituency in a Parliamentary County	In a Constituency in a Parliamentary Borough
7. Travelling expenses of Presiding Officers and Poll Clerks (including any expenses incurred in conveying the ballot boxes in those cases in which Presiding Officers or Poll Clerks are responsible for the transport of the boxes to or from the Polling Stations).	Third-class railway expenses or, where railway service is not available, the actual and necessary cost with subsistence allowance to Presiding Officers of £1, and to Poll Clerks of 15s. for each night necessarily spent away from home on account of duty.	If a Presiding Officer or Poll Clerk is responsible for the conveyance of the ballot box (but not otherwise) actual and necessary cost.
8. Travelling expenses of clerical or other assistants other than counting assistants employed by the acting Returning Officer or deputy acting Returning Officer where necessary to make arrangements for the poll or otherwise in connection with the conduct of the election.	Third-class railway expenses, or where railway service is not available, the actual and necessary cost with subsistence allowance of 15s. a night for each night necessarily spent away from home on account of duty.	
9. For printing and providing ballot papers	Actual and necessary cost.	
10. For printing and providing notices and other documents required in and about the election or poll and costs of publishing same,	Actual and necessary cost.	
11. For the renting of any building or room for the purpose of the election and for expenses for heating, lighting and cleaning any building or room.	Actual and necessary cost.	
12. For adapting any building or room for the purpose of the election and restoring it to fit condition for its normal use including the fitting up of voting compartments and the hire of necessary furniture where this is not otherwise obtainable.	Actual and necessary cost.	
13. For every ballot box required to be hired or repaired.	Actual and necessary cost.	
14. For the conveyance of ballot boxes, ballot papers, etc., in those cases where the cost of transport is not included in the travelling expenses of Presiding Officers and Poll Clerks under B (1) 7.	Actual and necessary cost.	
15. For every stamping instrument required to be purchased, hired, altered or repaired.	Actual and necessary cost.	
16. For copies of the register	Actual and necessary cost.	
17. For general stationery, postage, telegrams and telephone messages and bank charges.	Actual and necessary cost.	

II.—In an Uncontested Election.

	In a Constituency in a Parliamentary County	In a Constituency in a Parliamentary Borough
For all necessary preliminary work	Actual and necessary cost within the above scale, not exceeding under Head B (1) 5, for clerical and other assistance one-fourth of the fee which would be payable for a contested election.	

For the purpose of the above scale a district of Boroughs shall be treated as a constituency in a Parliamentary County. [446]

* * * * *

THE ELECTORAL REGISTRATION (LOCAL ELECTIONS) REGULATIONS, 1945

S. R. & O., 1945, No. 1085

*August 10, 1945 **

In pursuance of the powers conferred upon me by the Representation of the People Act, 1945, I hereby make the following regulations :—

PART I

Preliminary

1.—(1) These regulations may be cited as the Electoral Registration (Local Elections) Regulations, 1945, and shall come into force on the thirty-first day of October, 1945.

(2) These regulations shall not extend to Scotland. [447]

2. The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [448]

PART II

County Council and Borough Council Elections

3. Paragraph 16 of Part III of the Second Schedule to the Local Government Act, 1933, shall, in its application to a person voting as proxy for an elector at an election of a county councillor (not being a county councillor for London) or councillors for a borough, be modified so that the questions which may be asked of any such person shall run as follows :—

In the case of an election of a county councillor—

(a) Are you the same person whose name appears as A.B. [on this proxy paper] [or where the proxy is permitted to vote without producing the proxy paper, on the list of proxies for this election] as entitled to vote as proxy on behalf of C.D. ?

* These Regulations having lain before both Houses of Parliament in accordance with s. 20 of the Parliamentary Electors (War-Time Registration) Act, 1943, and s. 37 of the Representation of the People Act, 1945, were approved by resolution of the House of Lords on August 23, 1945, and by resolution of the House of Commons on August 22, 1945.

- (b) Have you already voted at the present election of a county councillor for this electoral division [*adding in the case of an ordinary election or a first election of an additional councillor, or for any other electoral division of the county*] on behalf of C.D. ?

In the case of an election of councillors for a borough—

- (a) Are you the same person whose name appears as A.B. [on this proxy paper] [*or where the proxy is permitted to vote without producing the proxy paper, on the list of proxies for this election*] as entitled to vote as proxy on behalf of C.D. ?
- (b) Have you already voted at the present election [*adding in the case of an election for several wards, in this or any other ward*] on behalf of C.D. ? [449]

PART III

Urban District Council Elections

4. Paragraph 16 of Part III of the Second Schedule to the Local Government Act, 1933, as adapted and altered by Part III of the Second Schedule to the Urban District Councillors Election Rules, 1934, shall, in its application to a person voting as proxy for an elector at an election of urban district councillors, be modified so that the questions which may be asked of any such person shall run as follows :—

- (a) Are you the same person whose name appears as A.B. [on this proxy paper] [*or where the proxy is permitted to vote without producing the proxy paper, on the list of proxies for this election*] as entitled to vote as proxy on behalf of C.D. ?
- (b) Have you already voted at the present election [*adding in the case of an election for several wards, in this or any other ward*] on behalf of C.D. ? [450]

PART IV

Rural District Council Elections

5. Paragraph 16 of Part III of the Second Schedule to the Local Government Act, 1933, as adapted and altered by Part III of the Second Schedule to the Rural District Councillors Election Rules, 1934, shall, in its application to a person voting as proxy for an elector at an election of rural district councillors, be modified so that the questions which may be asked of any such person shall run as follows :—

- (a) Are you the same person whose name appears as A.B. [on this proxy paper] [*or where the proxy is permitted to vote without producing the proxy paper, on the list of proxies for this election*] as entitled to vote as proxy on behalf of C.D. ?
- (b) Have you already voted at the present election [*adding in the case of an election for several electoral areas, in this [parish] [combination of parishes] [ward] or elsewhere in the rural district*] on behalf of C.D. ? [451]

PART V

Parish Council Elections

6. Paragraph 16 of Part III of the Second Schedule to the Local Government Act, 1933, as adapted and altered by Part III of the Second Schedule to the Parish Councillors Election Rules, 1934, shall, in its application to a person voting as proxy for an elector at an election of parish councillors, be modified so that the questions which may be asked of any such person shall run as follows :—

- (a) Are you the same person whose name appears as A.B. [on this proxy paper] [*or where the proxy is permitted to vote without producing the proxy paper*, on the list of proxies for this election] as entitled to vote as proxy on behalf of C.D. ?
- (b) Have you already voted at the present election [*adding in the case of an election for several parish wards*, in this or any other parish ward] on behalf of C.D. ? [452]

PART VI

London County Council and Metropolitan Borough Council Elections

7. Paragraph 16 of Part II of the Second Schedule to the London Government Act, 1939, shall, in its application to a person voting as proxy for an elector at an election of county councillors for the County of London or councillors for a metropolitan borough, be modified so that the questions which may be asked of any such person shall run as follows :—

In the case of an election of county councillors—

- (a) Are you the same person whose name appears as A.B. [on this proxy paper] [*or where the proxy is permitted to vote without producing the proxy paper*, on the list of proxies for this election] as entitled to vote as proxy on behalf of C.D. ?
- (b) Have you already voted at the present election of county councillors for this electoral division [*adding in the case of an ordinary election or a first election of an additional councillor*, or for any other electoral division of the county] on behalf of C.D. ?

In the case of an election of metropolitan borough councillors—

- (a) Are you the same person whose name appears as A.B. [on this proxy paper] [*or where the proxy is permitted to vote without producing the proxy paper*, on the list of proxies for this election] as entitled to vote as proxy on behalf of C.D. ?
- (b) Have you already voted at the present election of borough councillors for this ward [*adding in the case of an ordinary election or a first election of an additional councillor*, or for any other ward of the borough] on behalf of C.D. ? [453]

* * * * *

THE COUNTY AND BOROUGH ELECTION FORMS REGULATIONS, 1945

S. R. & O., 1945, No. 1102

August 30, 1945

In pursuance of Part I of the Second Schedule to the Local Government Act, 1933, I hereby make the following Regulations amending the prescribed forms for use at elections of county councillors, councillors of a borough and elective auditors :—

1. For paragraph 5 of Form A, being the form of notice of election of a county councillor, in the First Schedule to the County and Borough Election Forms Regulations, 1934, there shall be substituted the following paragraph :—

“ 5. No candidate will be validly nominated unless his consent (which must be given in writing on or within one month before the date

specified in paragraph 3, and attested by one witness) is delivered at the place and not later than the time specified in paragraph 3.

Special provision is made [by paragraph 3 of Part I of the Second Schedule to the Local Government Act, 1933, and] * by section 1 of the Local Elections (Service Abroad) Act, 1945, for a candidate who owing to absence from the United Kingdom cannot give his consent in this manner." [454]

2. For paragraph 6 of Form A, being the form of notice of election of councillors of a borough or of elective auditors, in the Second Schedule to the said Regulations, there shall be substituted the following paragraph:—

"6. No candidate will be validly nominated unless his consent (which must be given in writing on or within one month before the date specified in paragraph 4, and attested by one witness) is delivered at the Town Clerk's Office not later than the time specified in paragraph 4.

Special provision is made [by paragraph 3 of Part I of the Second Schedule to the Local Government Act, 1933, and] † by section 1 of the Local Elections (Service Abroad) Act, 1945, for a candidate who owing to absence from the United Kingdom cannot give his consent in this manner." [455]

3. These Regulations may be cited as the County and Borough Election Forms Regulations, 1945. [456]

* * * * *

THE URBAN DISTRICT COUNCILLORS ELECTION RULES, 1945

S. R. & O., 1945, No. 1103

August 30, 1945

In pursuance of Part I of the Second Schedule to the Local Government Act, 1933, as adapted by the Urban District Councillors Election Rules, 1934, I hereby make the following regulations amending the prescribed forms for use at an election of urban district councillors:—

1. For paragraph 6 of Form A, being the form of notice of election of urban district councillors, in the Third Schedule to the Urban District Councillors Election Rules, 1934, there shall be substituted the following paragraph:—

"6. No candidate will be validly nominated unless his consent (which must be given in writing on or within one month before the date specified in paragraph 4, and attested by one witness) is delivered at the place and not later than the time specified in paragraph 4.

Special provision is made by [paragraph 3 of Part I of the Second Schedule to the Local Government Act, 1933 and by] * section 1 of the Local Elections (Service Abroad) Act, 1945, for a candidate who owing to absence from the United Kingdom cannot give his consent in this manner." [457]

2. These regulations may be cited as the Urban District Councillors Election Rules, 1945. [458]

* * * * *

* The reference to the Act of 1933 to be deleted except at a casual vacancy election.

† The reference to the Act of 1933 to be deleted except at a casual vacancy election and the reference to the Act of 1945 to be deleted at an election of elective auditors.

THE RURAL DISTRICT COUNCILLORS ELECTION RULES, 1945

S. R. & O., 1945, No. 1104

August 30, 1945

In pursuance of Part I of the Second Schedule to the Local Government Act, 1933, as adapted by the Rural District Councillors Election Rules, 1934, I hereby make the following regulations amending the prescribed forms for use at an election of rural district councillors :—

1. For paragraph 6 of Form A, being the form of notice of election of rural district councillors, in the Third Schedule to the Rural District Councillors Election Rules, 1934, there shall be substituted the following paragraph :—

“ 6. No candidate will be validly nominated unless his consent (which must be given in writing on or within one month before the date specified in paragraph 4, and attested by one witness) is delivered at the place and not later than the time specified in paragraph 4.

Special provision is made by [paragraph 3 of Part I of the Second Schedule to the Local Government Act, 1933 and by] * section 1 of the Local Elections (Service Abroad) Act, 1945, for a candidate who owing to absence from the United Kingdom cannot give his consent in this manner.” [459]

2. These regulations may be cited as the Rural District Councillors Election Rules, 1945. [460]

* * * *

THE HOUSE OF COMMONS (BOUNDARY COMMISSIONS) (APPOINTED DAY) ORDER, 1945

S. R. & O., 1945, No. 1289

October 13, 1945

I, in pursuance of the power conferred upon me by subsection (2) of section thirty-three of the Representation of the People Act, 1945, by this Order direct as follows :—

1. The day appointed for the purposes of section thirty-three of the Representation of the People Act, 1945 (which relates to the date as soon as may be after which (a) the Boundary Commissions for Scotland, Wales and Northern Ireland are required to be constituted and (b) all the Boundary Commissions are required to take into consideration the representation in the House of Commons), shall be the fifteenth day of October, nineteen hundred and forty-five. [461]

2. This Order may be cited as the House of Commons (Boundary Commissions) (Appointed Day) Order, 1945. [462]

* * * *

* The reference to the Act of 1933 to be deleted except at a casual vacancy election.

LOCAL ELECTIONS (SUPPLEMENTARY PROVISIONS) (NO. 2) ORDER, 1945

S. R. & O., 1945, No. 1294

October 11, 1945

[463]

This order made certain amendments to the Local Elections (Supplementary Provisions) Order, 1945 (*S. R. & O., 1945, No. 706*), *q.v., ante*, for effect of amendments.

EVACUATION AND BILLETING

PAGE

ORDERS, CIRCULARS AND MEMORANDA:—

Defence (Evacuated Areas) Regulations, 1940, Regulation 4 amended, Regulation 4A 144

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION 4 OF, AND ADDING REGULATION 4A TO, THE DEFENCE (EVACUATED AREAS) REGULATIONS, 1940

S. R. & O., 1945, No. 1453

November 16, 1945

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 to 1945, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:—

1. After Regulation four of the Defence (Evacuated Areas) Regulations, 1940, there shall be inserted the following Regulation:—

“4A.—(1) Where an order has been made appointing a day on which the evacuation period is to come to an end in relation to any evacuation area, all debts owing on that day to which paragraph (1) of Regulation four of these Regulations has applied in relation to that area, and all liabilities under any contract of guarantee, indemnity or insurance entered into before the date of these Regulations in respect of any such debts as aforesaid, shall only be recoverable and enforceable by means of an application to the court under section two of the Liabilities (War-Time Adjustment) Act, 1944, and no other proceedings or remedies shall be taken or exercised in respect of such debts or liabilities as aforesaid:

Provided that this Regulation shall not affect the enforceability by virtue of section one of the said Act of any settlement of any such debt or liability as aforesaid.

(2) Where any judgment or order has been obtained in contravention of this Regulation, it shall, subject to and in accordance with rules of court, be set aside.” [464]

2. Paragraph (4) of Regulation four of the said Regulations is hereby revoked, but such revocation shall not affect any proceedings commenced under that paragraph before the coming into operation of this Order. [465]

3. This Order shall come into operation on the first day of January, nineteen hundred and forty-six. [466]

Note as to S. R. & O., 1945, No. 1453.—*The effect of the new Regulation is that, when the moratorium established under the Defence (Evacuated Areas) Regulations, 1940, comes to an end in any area, outstanding debts to which the moratorium applied, and liabilities under contracts of guarantee, indemnity or insurance relating to such debts, are only to be recovered by means of an application to the court under section two of the Liabilities (War-Time Adjustment) Act, 1944. This section provides that on such an application the court can remit or reduce the debt or liability in question, having regard among other matters to the relative degrees of hardship suffered by the parties, and can allow time for payment and give other relief.*

Paragraph (4) of Regulation 4 of the Defence (Evacuated Areas) Regulations, 1940, which is revoked by Article 2 of the Order, enables the court to lift the moratorium in whole or in part in particular cases. This is no longer required because the court has power to end the moratorium under section 2 of the Act of 1944, as respects particular debts and liabilities, on the application of the creditor as well as the debtor.

FACTORIES

STATUTES :—

Distribution of Industry Act, 1945 - - - - - PAGE 145

STATUTES

THE DISTRIBUTION OF INDUSTRY ACT, 1945

(8 & 9 Geo. 6, c. 36)

PRELIMINARY NOTE

The object of this Act, which received the Royal Assent on June 15, 1945, is to enable the Government to secure a proper distribution of industry over the country as a whole by stimulating the industrial and social development of areas in which there is a special danger of unemployment (described as "development areas") and by controlling further industrial development in other areas, where such control appears to be desirable for economic, social or strategic reasons. It also winds up the affairs of the Commissioners for the Special Areas, and provides for the discharge of commitments entered into by them.

S. 1 empowers the Board of Trade to acquire land in development areas so that premises for industrial undertakings, or means of access thereto, may be provided. The Board may also erect factories and other buildings for industrial undertakings on any land held by them in development areas, and prepare the land as sites for such premises. By s. 12 (2) the consideration for the disposal of such land or premises is to be determined with the consent of the Treasury.

S. 2 empowers the Board of Trade, with the consent of the Treasury, to make loans to trading or industrial estate companies to further the provision of industrial premises in development areas.

S. 3 empowers Ministers of the Crown responsible for basic services on which development, and in particular development of industry, depends, to make grants or loans, with the consent of the Treasury, towards the cost of improving those services where they are inadequate for the needs of a development area. This power is additional to any other powers of a Minister of the Crown to make grants or loans.

S. 4 empowers the Treasury, in accordance with the recommendations of an advisory committee, to give financial assistance in respect of the capital requirements of industrial undertakings in development areas by making annual grants and loans, subject to the conditions specified in sub-s. (2) of the section.

S. 5 empowers the Board of Trade to acquire, by agreement or compulsory purchase, derelict land in development areas, and to carry out work on it with a view to bringing it into use or improving the amenities of the neighbourhood; and also, with the consent of the Treasury, to make grants towards the cost of such work where it is undertaken by a local authority or a non-profit making company. The Board is not, however, to carry out any work or erect any building in pursuance of this section, or in pursuance of s. 1, so as to contravene the provisions of any scheme in force under the Town and Country Planning Acts (s. 6).

S. 7 provides a procedure by which the Board of Trade may by Order make additions to and removals from the list of development areas given in Schedule I to the Act. Any such Order requires approval by affirmative resolution of each House of Parliament, and in any case may not be made without consultation with the local authorities concerned.

S. 8 repeals the Special Areas (Development and Improvement) Acts, 1934 and 1937, and provides for the winding up of the existing arrangements made under them, including the continued operation of any agreement entered into by a Commissioner with the substitution for him of the appropriate Minister.

Under s. 9 the Board of Trade must be notified of all proposals to erect industrial buildings with an aggregate floor space exceeding 3,000 square feet and forming part of a new industrial unit.

S. 10 empowers the Board of Trade to make regulations exempting any class or description of industrial building from any restriction imposed under s. 9.

The remaining sections of the Act contain supplementary provisions. S. 11 provides that the expenditure under the Act shall be met from moneys provided by Parliament and that receipts shall be paid into the Exchequer, subject in certain cases to directions by the Treasury that expenditure shall be defrayed from, and receipts paid into, existing statutory funds. S. 12 contains provisions as to the acquisition and disposal of land; s. 13 deals with the exercise of functions of the Board of Trade, and s. 14 with the service of notices. The interpretation section is s. 15.

Schedule I to the Act sets out a list of development areas, which are four in number—the North-Eastern, West Cumberland, South Wales and Monmouthshire, and Scottish, Development Areas. As noted above, this list may be altered by Order in Council if occasion demands (s. 7). Schedule II deals with compulsory purchase orders to be made under ss. 12 and 16. [467]

ARRANGEMENT OF SECTIONS

Provisions as to development areas

Section	Page
1. Provision of premises for industrial undertakings in development areas ..	147
2. Financial assistance to trading or industrial estate companies in development areas	147
3. Financial assistance for improvement of basic services for development areas	147
4. Financial assistance for industrial undertakings in development areas ..	147
5. Provisions for dealing with derelict land in development areas ..	148
6. Buildings erected under ss. 1 and 5 to comply with planning schemes ..	148
7. Alteration of Schedule of development areas	148
8. Repeal of Special Areas Acts.. .. .	149

General provisions as to distribution of industry

9. Erection of buildings for new industrial units to be notified to Board of Trade	149
10. Supplementary provisions relating to s. 9	150

Supplementary Provisions

11. Expenses and receipts	151
12. Provisions as to acquisition and disposal of land	151
13. Exercise of functions of Board of Trade	151
14. Service of notices	151
15. Interpretation	151
16. Provisions as to Scotland	152
17. Short title and extent.. .. .	152

SCHEDULES :—

First Schedule.—Development Areas	152
Second Schedule.—Compulsory Purchase Orders	153

An Act to provide for the development of certain areas ; for controlling the provision of industrial premises with a view to securing the proper distribution of industry ; and for purposes connected with the matters aforesaid.

[15th June, 1945.]

Provisions as to development areas

1. Provision of premises for industrial undertakings in development areas.—In any area specified in the First Schedule to this Act (hereinafter referred to as a “development area”) the Board of Trade may for the purpose of facilitating the provision of premises needed for meeting the requirements of industrial undertakings (including requirements arising from the needs of persons employed or to be employed therein) or sites for such premises or means of access thereto—

- (a) acquire, by agreement or, if so authorised by a compulsory purchase order made under this Act, by compulsory purchase, land for the provision thereon (whether by the Board or by other persons) of such premises or means of access ; and
- (b) erect such buildings and carry out such works on land held by the Board as appear to them expedient for the purpose of providing such premises sites or means of access, or of rendering the land suitable for the provision thereof by other persons. [468]

Industrial undertaking.—See s. 15, *post*.

2. Financial assistance to trading or industrial estate companies in development areas.—The Board of Trade may with the consent of the Treasury make loans to trading or industrial estate companies (whether incorporated before or after the passing of this Act) where the Board are satisfied that the loans will further the provision of industrial premises in development areas in such a way as to induce persons to establish or expand industrial undertakings in such areas. [469]

Trading or industrial estate companies.—See s. 15, *post*.

3. Financial assistance for improvement of basic services for development areas.—(1) Where it appears to a Minister of the Crown that adequate provision has not been made for the needs of any development area in respect of a basic service for which he is responsible, he may with the consent of the Treasury make grants or loans towards the cost of improving the service to such persons and in such manner as appears to him to be requisite for enabling those needs to be met. [470]

(2) In this section the expression “basic service” means the provision of facilities for transport (whether by road, rail, water or air) or of power, lighting or heating, and housing, health and other services on which the development of the area in question, and in particular of industrial undertakings therein, depends. [471]

(3) The powers conferred by this section are in addition to any other powers of a Minister of the Crown to make grants or loans. [472]

4. Financial assistance for industrial undertakings in development areas.—(1) The Treasury may, in accordance with recommendations of an advisory committee appointed by them, agree with any person carrying on, or proposing to carry on, in a development area an industrial undertaking to which this section applies (whether an undertaking already established or proposed to be established) to give financial assistance to the carrying on of the undertaking, on such terms as may be specified in the agreement, in one or more of the following ways—

- (a) by making annual grants to the said person, either towards the cost of paying interest on moneys borrowed or to be borrowed for the purposes of the undertaking or generally for those purposes ;
- (b) by making loans for those purposes. [473]

(2) This section applies to any undertaking approved by the Board of Trade as complying with the requirements of the proper distribution of industry, being an undertaking as to which the Treasury are satisfied in accordance with such recommendations as aforesaid that there are good prospects of its ultimately being able to be carried on successfully without further assistance under this section, but that the person carrying it on or proposing to carry it on cannot for the time being, without assistance under this section, obtain capital required for the purposes of the undertaking on the requisite terms. [474]

5. Provisions for dealing with derelict land in development areas.—(1) Where it appears to the Board of Trade that by reason of land in a development area being derelict and likely to remain so for a considerable period it is expedient that it should be acquired by the Board for the purpose of securing that it is brought into use or of improving the amenities of the neighbourhood, the Board may acquire the land by agreement or, if so authorised by a compulsory purchase order made under this Act, by compulsory purchase. [475]

(2) The Board of Trade may carry out such work on land acquired by them under this section as appears to them expedient for enabling the land to be brought into use or for improving the amenities of the neighbourhood. [476]

(3) The Board of Trade may, with the consent of the Treasury, make grants, in such manner as appears to the Board to be requisite for the purposes of this subsection, to any local authority, or to any company the constitution of which prohibits the distribution of the profits of the company to its members, towards the cost of carrying out work on land in development areas which is derelict for the purpose of enabling the land to be brought into use or of improving the amenities of the neighbourhood. [477]

6. Buildings erected under ss. 1 and 5 to comply with planning schemes.—The Board of Trade shall not erect any building or carry out any work in pursuance of section one or five of this Act so as to contravene the provisions of any scheme in force under the Town and Country Planning Act, 1932, the Town and Country Planning (Scotland) Act, 1932, or any enactment repealed by either of those Acts or by any enactment thereby repealed. [478]

7. Alteration of Schedule of development areas.—(1) The Board of Trade may from time to time, and shall on the expiration of the period of three years from the passing of this Act, take into consideration the question whether any area should be added to, or removed from, the First Schedule to this Act. [479]

(2) Where at any time it appears to the Board that the distribution of industry is such that in any area not specified in the said First Schedule there is likely to be a special danger of unemployment, the Board may by order direct that the area shall be added to that Schedule. [480]

(3) Where at any time after the expiration of the period of three years from the passing of this Act the Board are satisfied, as to the whole or any part of any area specified in the said First Schedule, that the conditions aforesaid no longer exist, they may by order direct that the area or part in question shall be removed from that Schedule :

Provided that an order under this subsection shall not affect the validity or continuance of anything done or entered into before the coming into operation of the order. [481]

(4) An order under this section shall not be made except after consultation with every local authority whose area includes any land to which the order relates. [482]

(5) An order under this section shall not have effect until it has been approved by a resolution of each House of Parliament. [483]

First Schedule.—This Schedule will not be altered for three years; and once a district appears in the Schedule it will remain there for at least three years, thus ensuring some continuity (136 H. of L. Official Report 423, 424). The areas selected are those where there is danger of heavy unemployment developing unless special measures are taken, and include those areas formerly known as "Special Areas." As to the repeal of the Special Areas Acts, see s. 8, *infra*.

8. Repeal of Special Areas Acts.—(1) The Special Areas (Development and Improvement) Acts, 1934 and 1937, are hereby repealed. [484]

(2) As soon as may be after the passing of this Act the Special Areas Fund shall be wound up in accordance with directions of the Treasury, and there shall be paid into the Exchequer—

- (a) any balance in the Fund at the winding up thereof, and
- (b) any moneys accruing due after the winding up thereof which apart from this subsection would have been payable into the Fund,

but nothing in the foregoing provisions of this section shall affect the operation of subsections (5) to (7) of section three of the Act of 1934 (which relates to the preparation and laying before Parliament of accounts) as respects things done before the winding up of the Fund. [485]

(3) Any interest vested in a Commissioner immediately before the passing of this Act in land acquired by him under section four of the Act of 1934, and any security then vested in a Commissioner to secure the repayment of a loan made by him under that Act, shall on the passing of this Act and without more vest in such Minister of the Crown as the Treasury may determine. [486]

(4) Without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), the repeal of the said Acts shall not affect the continued operation of any agreement entered into thereunder before the passing of this Act, but any such agreement shall be modified as follows, that is to say—

- (a) in the case of an agreement entered into by a Commissioner to make loans or grants to assist the provision of industrial premises, the Board of Trade shall be substituted for the Commissioner;
- (b) in the case of any other agreement entered into by a Commissioner there shall be substituted for the Commissioner such Minister of the Crown as the Treasury may determine.

and any measures undertaken by a Commissioner may be completed by such Minister of the Crown as aforesaid. [487]

(5) In this section the expression "the Act of 1934" means the Special Areas (Development and Improvement) Act, 1934, and the expression "Commissioner" means a Commissioner appointed under section one of that Act. [488]

General provisions as to distribution of industry

9. Erection of buildings for new industrial units to be notified to Board of Trade.—(1) No person shall enter into a contract for the erection of an industrial building forming part of a new industrial unit, or begin the erection of such a building, at a time earlier than the expiration of sixty days, or such shorter period as the Board of Trade may allow, from the giving to the Board of notification in writing of the proposed erection:

Provided that this subsection shall not apply to the erection of a building which will have an aggregate floor space not exceeding ten thousand square feet. [489]

(2) For the purposes of this section, a building shall be deemed to form part of a new industrial unit unless—

- (a) it is contiguous or adjacent to another industrial building used in the course of the same undertaking, being a building erected before the passing of this Act or in respect of which notification has been given under this section ; or
- (b) it replaces such another industrial building as aforesaid and is erected either on the same site or on a site contiguous or adjacent to the site thereof. [490]

(3) The Board of Trade may, by notice in writing served upon any person who has notified the Board under this section of the proposed erection of a building, require him to inform them, in so far as the information was not given in the notification, of the proposed situation of the building, the industrial process to be carried on therein, the estimated aggregate floor space thereof, and the estimated number of men and of women to be employed therein. [491]

(4) If any person contravenes the provisions of subsection (1) of this section, or fails to furnish any information required under subsection (3) thereof, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds. [492]

(5) If in furnishing any information required under subsection (3) of this section any person knowingly or recklessly makes any statement false in a material particular, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds, or on conviction on indictment to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding twelve months or to both such imprisonment and such fine. [493]

Object of the section.—The object of the notification requirement under this section is to enable the Board of Trade to place at the disposal of industrialists all available information concerning sites, power, labour, transport, housing, amenities and similar matters, and to discuss with them where, in their own and the national interest, they should consider siting their proposed building. Such notification should be in writing, and be sent to the Factory Controller (Location) at the Board of Trade, and should where possible include information as to situation, use, estimated floor space and number of employees. The fact of notification under the Act does not dispense with the obligation to secure a building licence before building may be begun, nor does notification to the Board of Trade dispense with the need to secure the approval of the local planning authority (see Board of Trade Press Notice, dated June 11, 1945, Ref. 265).

10. Supplementary provisions relating to s. 9.—(1) The Board of Trade may by regulations made under this section exempt from the provisions of the last foregoing section any class or description of industrial building. [494]

(2) Any regulations made under this section shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the period of forty days beginning with the day on which the regulations are laid before it resolves that the regulations be annulled, they shall thereupon become void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [495]

(3) For the purposes of the last foregoing section, the person who causes the erection of a building (whether for the occupation or use of himself or of any other person), and not (except where the first-mentioned person himself carries out the work) the person by whom the work is carried out, shall be deemed to be the person by whom the building is erected. [496]

Supplementary Provisions

11. Expenses and receipts.—(1) Subject to any direction given under this section, any expenses incurred by any Government department under this Act shall be defrayed out of moneys provided by Parliament. [497]

(2) Subject to any direction given under this section, any receipts of a Government department in respect of loans made under this Act, or of the disposal of land acquired, or on which work has been carried out, under this Act, shall be paid into the Exchequer. [498]

(3) The Treasury may direct that any expenses or receipts of a Government department under section three or section eight of this Act shall respectively be defrayed out of or paid into such fund under the control and management of the department as may be specified in the direction :

Provided that no direction shall be given such as to impose a charge on the Consolidated Fund of the United Kingdom. [499]

12. Provisions as to acquisition and disposal of land.—(1) Compulsory purchase orders may be made under this Act in accordance with the provisions of the Housing Act, 1936, set out with modifications in the Second Schedule to this Act ; and those provisions shall apply accordingly to the compulsory purchase of land by virtue of this Act. [500]

(2) The consideration for any disposal (whether by sale or lease or otherwise) of land acquired by the Board of Trade under this Act, or land held by the Board on which buildings have been erected or works carried out by them under this Act, shall be determined with the consent of the Treasury. [501]

13. Exercise of functions of Board of Trade.—Anything required or authorised under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board or any person authorised in that behalf by the President of the Board. [502]

14. Service of notices.—(1) Any notice or other document required or authorised to be served under this Act may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post, so however that a document shall not be duly served by post unless it is sent by registered letter. [503]

(2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body. [504]

(3) For the purposes of this section and of section twenty-six of the Interpretation Act, 1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served. [505]

(4) If it is not practicable after reasonable enquiry to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of " owner " or " lessee " or " occupier " of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises. [506]

15. Interpretation.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say,—

" industrial building " and " industrial premises " mean respectively a building and premises used or designed or suitable for use for the carrying on of any industrial process ;

“industrial undertaking” means an undertaking by which an industrial process is carried on;

“industrial process” means any process for or incidental to any of the following purposes, namely,—

(a) the making of any article or of part of any article, or

(b) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition, of any article, or

(c) without prejudice to the foregoing paragraphs, the getting, dressing or preparation for sale of minerals or the extraction or preparation for sale of oil or brine,

being a process carried on in the course of trade or business, and for the purposes of this definition the expression “article” means an article of any description, including a ship or vessel;

“local authority” means the council of a county, county borough, or county district, or in relation to Scotland a county council, town council or district council;

“trading or industrial estate company” means a company the objects of which include the provision of industrial premises for use by persons other than the company, being a company the constitution of which prohibits the distribution of the profits of the company to its members. [507]

(2) References in this Act to a Minister of the Crown shall be construed as references to the Secretary of State, Minister or Board in charge of a Government department. [508]

16. Provisions as to Scotland.—(1) Anything required or authorised to be done by section seven of this Act in relation to any area or part of an area in Scotland shall be done by the Board of Trade and the Secretary of State acting jointly. [509]

(2) The provisions of Part V of the Second Schedule to this Act shall have effect for the application of that Schedule to Scotland. [510]

17. Short title and extent.—(1) This Act may be cited as the Distribution of Industry Act, 1945. [511]

(2) This Act does not extend to Northern Ireland. [512]

SCHEDULES

Sections 1, 7

FIRST SCHEDULE

Development Areas

The North-Eastern Development Area.

The Administrative County of Durham and the County Boroughs of Darlington, Gateshead, South Shields, Sunderland and West Hartlepool.

The County Boroughs of Newcastle-on-Tyne and Tynemouth.

In the Administrative County of Northumberland—

The Boroughs of Wallsend and Blyth.

The Urban Districts of Longbenton, Newburn, Ashington, Newbiggin by the Sea, Bedlingtonshire, Seaton Valley, Whitley Bay and Gosforth.

The County Borough of Middlesbrough.

In the North Riding of Yorkshire—

The Boroughs of Thornaby on Tees and Redcar.

The Urban Districts of Eston, Guisborough, Saltburn and Marske by the Sea, Skelton and Brotton and Loftus.

Within the Rural District of Stokesley, the parishes of Ingleby Barwick, Maltby, Stainton, Hemlington, Marton and Ormesby, and within the Rural District of Whitby, the parish of Hinderwell.

The West Cumberland Development Area.

- In the Administrative County of Cumberland—
 - The Boroughs of Whitehaven and Workington.
 - The Urban Districts of Cockermouth and Maryport.
 - The Rural Districts of Cockermouth, Ennerdale, Millom and Wigton.

The South Wales and Monmouthshire Development Area.

- The Administrative County of Glamorgan, and the County Boroughs of Cardiff, Merthyr Tydfil and Swansea.
- In the Administrative County of Carmarthen—
 - The Boroughs of Kidwelly and Llanelly.
 - The Urban Districts of Ammanford, Bury Port and Cwmanman.
 - The Rural District of Llanelly.
- In the Administrative County of Pembroke—
 - The Borough of Pembroke.
- In the Administrative County of Brecknock—
 - The Urban District of Brynmawr.
 - The Rural Districts of Crickhowell, Vaynor and Penderyn and Ystradgynlais.
- The County Borough of Newport.
- In the Administrative County of Monmouth—
 - The Urban Districts of Abercarn, Abertillery, Bedwas and Machen, Bedwellty, Blaenavon, Caerleon, Cwmbran, Ebbw Vale, Mynyddislwyn, Nantyglo and Blaina, Pontypool, Rhymney, Risca, Tredegar and Usk.
 - The Rural Districts of Magor and St. Mellons and Pontypool.

The Scottish Development Area.

- The Counties of Dunbarton, Lanark and Renfrew.
- The County of the City of Glasgow.
- The parishes of Ardrossan, Beith, Dalry, Dreghorn, Dunlop, Fenwick, Galston, Irvine, Kilbirnie, Kilmarnock, Kilmaurs, Kilwinning, Loudon, Riccarton, Stevenston, and Stewarton, within the County of Ayr.
- The parish of Sanquhar within the County of Dumfries so far as situated north of the London Midland and Scottish Railway line from Dumfries to Kilmarnock.
- The parishes of Falkirk, Grangemouth, Muiravonside and Slamannan within the County of Stirling so far as situated south of the London and North Eastern Railway line from Castlecary to Linlithgow, and also the parishes of Campsie and Baldernock within that County.
- The parishes of Bathgate, Ecclesmachan, Kirkliston, Livingston, Linlithgow, Torphichen, Uphall and Whitburn within the County of West Lothian so far as situated south of the London and North Eastern Railway line from Linlithgow to Ratho.
- The parishes of Kirknewton, Mid Calder and West Calder within the County of Midlothian.
- The County of the City of Dundee.

References in this Schedule to any county, county borough, City, county district or parish shall, subject to the provisions of any order under subsection (2) of section seven of this Act, be construed as references thereto as defined at the passing of this Act. [513]

Sections 12, 16

SECOND SCHEDULE

Compulsory Purchase Orders

PART I

Procedure for Authorising Compulsory Purchase

1. A compulsory purchase order shall incorporate, subject to the modifications set out in Part IV of this Schedule and to any necessary adaptations, the Lands Clauses Acts, section seventy-seven of the Railways Clauses Consolidation Act, 1845, and sections seventy-eight to eighty-five of that Act (as originally enacted

and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923), and shall describe by reference to a map the land to which it relates, and subject as aforesaid shall be in such form as the Board of Trade may determine.

2. Where the Board of Trade propose to make a compulsory purchase order they shall prepare a draft thereof, and shall—

- (a) publish in one or more newspapers circulating in the district in which the land to which the draft of the order relates is situated a notice stating that they propose to make a compulsory purchase order and describing the said land and naming a place where a copy of the draft of the order and of the map referred to therein may be seen at all reasonable hours ;
- (b) serve on every owner, lessee and occupier (except tenants for a month or a less period than a month) of any of the land to which the draft of the order relates a notice stating that the Board propose to make a compulsory purchase order and the effect thereof and specifying the time within which, and the manner in which, objections to the proposal may be made.

3.—(1) If no objection is duly made—

- (a) by any of the persons upon whom notices are required to be served, or
- (b) by any local authority in whose area the land to which the draft of the order relates is situated, or by any society or body having as its object or one of its objects the preservation of amenities enjoyed by the public, being a society or body the character and membership of which is such that it is, in the opinion of the Board of Trade, proper that their views should be considered,

or if all objections so made are withdrawn, the Board may, if they think fit, make an order either in accordance with the draft or with any modification thereof except, unless all persons interested consent, a modification extending the order to any land not designated by the draft.

(2) In any other case the the Board shall, before making an order, cause a public local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then make an order as aforesaid :

Provided that the Board may require any person who has made an objection to state in writing the grounds thereof, and may make an order without causing a public local inquiry to be held if they are satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed.

(3) Subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence at, and defraying the costs of, local inquiries) shall apply to local inquiries held in pursuance of this paragraph as they apply to the local inquiries mentioned in subsection (1) of the said section two hundred and ninety. [514]

PART II

Validity and Operation of Compulsory Purchase Orders

4. So soon as may be after a compulsory purchase order has been made, the Board of Trade shall publish in one or more newspapers circulating in the district in which the land designated by the order is situated a notice stating that the order has been made, and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours, and shall serve a like notice on every person who, having duly given notice of his objection to the making of the order, appeared at the public local inquiry in support of his objection.

5. If any person aggrieved by a compulsory purchase order desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with in relation to the order, he may, within six weeks from the publication of notice of the making of the order, make an application to the High Court, and on any such application the Court—

- (a) may by interim order suspend the operation of the order or any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ; and

- (b) if satisfied that the order or any provision contained therein is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.

6. Subject to the provisions of the last foregoing paragraph, a compulsory purchase order shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative on the expiration of six weeks from the date on which notice of the making of the order is published in accordance with the provisions of this Part of this Schedule. [515]

PART III

Restrictions on Compulsory Purchase of Certain Lands

7.—(1) Where a compulsory purchase order authorises the purchase of any land forming part of a common, open space, fuel allotment or field garden allotment, the order, so far as it relates to the purchase of such land, shall be provisional only and shall be of no effect until confirmed by Parliament, except where the order provides for giving in exchange for such land other land, not being less in area, certified by the appropriate Minister to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public.

(2) Before giving any such certificate the appropriate Minister shall give public notice of the proposed exchange, and afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a public local inquiry on the subjection.

Sub-paragraph (3) of paragraph 3 of this Schedule shall apply to local inquiries under this paragraph as it applies to local inquiries under that paragraph.

(3) An order which provides for such an exchange shall provide for vesting the land given in exchange in the persons in whom the common, open space, or allotment was vested, subject to the same rights, trusts and incidents as attached to the common, open space or allotment, and for discharging the part of the common, open space, or allotment purchased from all rights, trusts and incidents to which it was previously subject.

(4) Part II of this Schedule shall not apply to a compulsory purchase order in so far as it is provisional only and of no effect until confirmed by Parliament.

(5) For the purposes of this paragraph, the expression "appropriate Minister" means, in relation to a common or a fuel allotment or field garden allotment, the Minister of Agriculture and Fisheries, and in relation to an open space, not being a common or such an allotment, the Minister of Town and Country Planning; the expression "common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green; the expressions "fuel allotment" and "field garden allotment" mean respectively an allotment set out as a fuel allotment and as a field garden allotment under an Inclosure Act; and the expression "open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground.

8. A compulsory purchase order shall not authorise the purchase of any land which is the site of an ancient monument or other object of archaeological interest, or the purchase of any building included in a list compiled or approved under the provisions of section forty-two of the Town and Country Planning Act, 1944.

9. A compulsory purchase order shall not authorise the purchase of any land belonging to the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, which is inalienable under section twenty-one of that Act or section eight of the National Trust Act, 1939.

10.—(1) A compulsory purchase order shall not authorise the purchase of any land which is the property of a local authority, or of any land which is the property of statutory undertakers, having been acquired by them for the purposes of their undertaking.

(2) In this paragraph the expression "local authority" includes a joint committee appointed under any enactment, order or scheme if all the constituent authorities are local authorities. [516]

PART IV

*Modifications of Lands Clauses Acts and Acquisition of Land (Assessment of Compensation) Act, 1919, for purposes of this Act**The Lands Clauses Acts*

11. In construing the Lands Clauses Acts as incorporated with a compulsory purchase order,—

- (a) this Act, together with the compulsory purchase order in question, shall be deemed to be the special Act ;
- (b) references to the promoters of the undertaking shall be construed as references to the Board of Trade ;
- (c) references to the execution of the works shall be construed as references to any erection or carrying out by the Board of Trade of buildings or works authorised by this Act.

12. The following sections of the Lands Clauses Consolidation Act, 1845, shall be excepted from incorporation with a compulsory purchase order, that is to say,—

- (a) sections one hundred and twenty-seven to one hundred and thirty-two (which relate to the sale of superfluous land) ;
- (b) section one hundred and thirty-three (which relates to promoters making good deficiencies in land tax and rates) ;
- (c) sections one hundred and fifty and one hundred and fifty-one (which relate to access to the special Act).

13.—(1) Where the Board of Trade have served notice to treat on every owner of any land, they may at any time thereafter serve a notice on every owner and occupier of any of the land, describing the land to which the notice relates and stating their intention to enter on that land and take possession thereof at the expiration of such period (not being less than fourteen days) from the date on which the notice is served as may be therein specified.

(2) At the expiration of the period specified in such a notice (or, where two or more such notices are required, and the periods specified in the several notices do not expire at the same time, at the expiration of the last of those periods to expire), or at any time thereafter, the Board of Trade may enter on and take possession of the land without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation agreed or awarded, as they would have been required to pay if those provisions had been complied with.

14. The following provisions shall have effect in substitution for the provisions of section ninety-two of the Lands Clauses Consolidation Act, 1845, that is to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the arbitrator determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if he so determines, he shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the Board of Trade that part of the house, building, manufactory, park or garden.

15. Where glebe land or other land belonging to an ecclesiastical benefice is purchased compulsorily, or compensation falls to be paid for damage sustained by the owner of such land by reason of severance or injury affecting the land, sums agreed upon or awarded for the purchase, severance or injury shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising such a sale.

16. All notices required to be served by the Board of Trade may, notwithstanding anything in section nineteen of the Lands Clauses Consolidation Act, 1845, be served and addressed in the manner specified in this Act in relation to notices required to be served under this Act.

Acquisition of Land (Assessment of Compensation) Act, 1919

17. The arbitrator shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, work, improvement or alteration, directly or indirectly concerned, if the arbitrator is satisfied that the creation of the interest, the erection of the building, the doing of the work, or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation. [517]

PART V

Application to Scotland

18. This Schedule shall apply to Scotland subject to the following modifications :—

- (a) for any reference to the High Court there shall be substituted a reference to the Court of Session ; and for any reference to the Minister of Agriculture and Fisheries or the Minister of Town and Country Planning there shall be substituted a reference to the Secretary of State ;
- (b) for the provisions of the Lands Clauses Consolidation Act, 1845, referred to, there shall be substituted the corresponding provisions of the Lands Clauses Consolidation (Scotland) Act, 1845, that is to say for section nineteen, section eighteen ; for sections eighty-four to ninety, sections eighty-three to eighty-eight ; for section ninety-two, section ninety ; for sections one hundred and twenty-seven to one hundred and thirty-two, sections one hundred and twenty to one hundred and twenty-five ; for section one hundred and thirty-three, section one hundred and twenty-seven ; and for sections one hundred and fifty and one hundred and fifty-one, sections one hundred and forty-two and one hundred and forty-three ;
- (c) for references to the Railways Clauses Consolidation Act, 1845, and to sections seventy-seven and seventy-eight to eighty-five thereof there shall be respectively substituted references to the Railways Clauses Consolidation (Scotland) Act, 1845, and to section seventy and sections seventy-one to seventy-eight thereof ;
- (d) paragraph 3 shall have effect as if subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, applied to Scotland with the substitution of references to an order for references to a summons, and the omission of the word “ summarily ” in subsection (4) and of the words from “ and every such order ” in subsection (5) to the end of the subsection ;
- (e) for any reference to section forty-two of the Town and Country Planning Act, 1944, there shall be substituted a reference to any similar enactment applying to Scotland ;
- (f) paragraph 7 shall have effect as if the references to fuel allotments, field garden allotments, and land subject to being enclosed under the Inclosure Acts, 1845 to 1882, were omitted ;
- (g) paragraph 14 shall not apply. [518]

Lands Clauses Acts.—This means as respects England and Wales, the Lands Clauses Consolidation Act, 1845 ; the Lands Clauses Consolidation Acts Amendment Act, 1860 ; the Lands Clauses Consolidation Act, 1869 ; the Lands Clauses (Umpire) Act, 1883 ; and any Acts for the time being in force amending the same.

Inclosure Acts, 1845 to 1882.—These are the Inclosure Acts, 1845, 1846, 1847, 1848, 1849, the Inclosure Commissioners Act, 1851, the Inclosure Acts, 1852, 1854, 1857, 1859, the Inclosure, etc., Expenses Act, 1868, the Commons Act, 1876, the Commons (Expenses) Act, 1878, the Commons Act, 1879, and the Commonable Rights Compensation Act, 1882.

FINANCE

STATUTES :—	PAGE		PAGE
Local Authorities Loans Act, 1945 -	158	1945, made by the Public Works	
Finance (No. 2) Act, 1945 -	164	Loan Commissioners—	171
ORDERS, CIRCULARS AND MEMO-		Treasury Minute fixing rates of	
RANDA :—		interest on Local Loans -	172
Local Authorities Loans Act, 1945		Treasury Note on Procedure for	
(Date of Commencement) Order,		Applications to Public Works	
1945 -	168	Loan Commissioners -	174
Public Works Loans (Fees) Regula-		Cost of Living Bonus for Local	
tions, 1945 -	168	Authorities' Non-Industrial	
Local Authorities Loans (Exemp-		Staffs: Admissibility for Pur-	
tions) Regulations, 1945 -	169	poses of Grant or Reimbursement	
Further Regulations, dated June 12,		by the Exchequer -	176

STATUTES

LOCAL AUTHORITIES LOANS ACT, 1945

(8 & 9 Geo. 6, c. 18)

PRELIMINARY NOTE

The main object of this Act (which received the Royal Assent on March 28, 1945, and which was brought into operation by S. R. & O., 1945, No. 678, made under s. 12 (2), on August 1, 1945), is to regulate the borrowings of local authorities, first by centralising them in the Local Loans Fund, and secondly by making available for purposes for which borrowing powers can be exercised the moneys standing to the credit of various capital funds.

The Local Loans Fund was set up by the National Debt and Local Loans Act, 1887, under the management of the National Debt Commissioners, for the purposes of financing certain loans by the Public Works Loan Commissioners and others. The fund has been financed in the past by the creation of local loans stock under s. 8 of that Act; and although power was given to the Treasury by s. 28 of the Finance Act, 1935, to create and issue securities other than local loans stock for the same purpose, that power has so far not been used.

Money cannot be issued out of the Local Loans Fund for the purpose of loans by the Public Works Loan Commissioners except under the authority of an Act of Parliament; and accordingly, Bills are periodically introduced into Parliament for the purpose of authorising the issue of money up to a stated amount. S. 1 of the present Act makes it illegal, until the end of 1950, for any local authority to borrow otherwise than from the Public Works Loan Commissioners, but confers power on the Treasury by regulations to prescribe exceptions. Exceptions may be made either by reference to the manner of borrowing (e.g. on mortgage), or to the source of borrowing (e.g. the authority's internal funds or the surplus funds of other authorities), or to the purposes of borrowing; see the Local Authorities Loans (Exemptions) Regulations, 1945, S. R. & O., 1945, No. 680.

The Lord Chancellor (Viscount Simon), in moving the Second Reading of the Bill in the House of Lords, said: "The policy embodied in this Bill is that . . . all local authorities should borrow from one source—from the Local Loans Fund—and that that Fund should be financed by the Treasury out of the Treasury's general borrowings. By that means the various demands of local authorities on the capital market, instead of being made by a large number of authorities in competition with one another, and with very bad timing it may be, will be made by the Treasury at such times and in such ways as are most convenient in the light of our general borrowing programme. I am quite aware that that statement of policy may appear to deprive local authorities of the freedom which they have hitherto enjoyed—freedom to borrow, subject to certain conditions, where and how they please. But against that we must set, as I am sure local authorities themselves fully realise, the very great and tangible advantage which they will by this means enjoy, for it is part of the scheme that in future when they borrow from the Local Loans Fund the rate of interest to be charged for any given period will be approximately the rate which the Treasury itself pays, or might be expected to pay, on its borrowings for

its own purposes in the same period. . . . It is an immense advantage that under this Bill they will now get the full benefit of the national credit, with the result that the cheapest possible borrowing can be made by them at the lowest rate of interest " (135 H. of L. Official Report 298).

The Lord Chancellor further (*ibid.* 299) gave the following figures for the rates of interest to be charged :—

Periods not exceeding 5 years	.. ..	2 per cent.
Exceeding 5 but not exceeding 10 years	2½	per cent.
" 10 " " 15 "	2¾	per cent.
" 15 " " 30 "	3	per cent.
For periods exceeding 30 years (say)	3½	per cent.

S. 2 of the Act makes certain consequential amendments in the Public Works Loans Act, 1875, which is the principal Act under which the Public Works Loan Commissioners operate. The powers of the Commissioners were formerly limited to lending for certain specific purposes and to lending for periods not exceeding those laid down in the Acts authorising the Commissioners to make the loans. Sub-ss. (1) and (2) of s. 2 in effect remove these limitations by providing that the Commissioners may lend for any purpose for which, and for any period not exceeding the period for which, a local authority has power to borrow. Sub-s. (3) provides that borrowers shall pay a fee prescribed by regulations made by the Treasury after consultations with the Commissioners; see S. R. & O., 1945, No. 679.

S. 3 adds to those mentioned above a third method of providing money for the Local Loans Fund. Sub-ss. (1) and (2) provide that the Fund may be financed from the Consolidated Fund and that the money required for that purpose may be borrowed by the Treasury in any manner in which they are authorised to raise money under the National Loans Act, 1939. The remaining provisions of the section are of a consequential and technical character.

S. 4 makes provisions as to the repayment of loans made by Public Works Loan Commissioners. S. 5 amends s. 5 of the Public Works Loans Act, 1941, so as (*inter alia*) to enable the Treasury to advance to a local authority a sum equal to the price of issue of any part which is not taken up of a new issue to meet the liability on any maturing securities. S. 6 makes certain consequential amendments to s. 52 (2) of the Small Holdings and Allotments Act, 1908, s. 72 (2) of the Housing (Scotland) Act, 1925, and s. 123 (2) of the Housing Act, 1936.

S. 7 enables the proceeds of loans by the Public Works Loan Commissioners to be carried into the consolidated loans funds or loans pools, which a large number of local authorities now conduct. The provision in the concluding words of the section is designed to ensure that where an authority borrows from the Commissioners the rate of interest to be charged in calculating loan charges for purposes of Exchequer grants shall, in such cases as may be laid down, be the rate of interest charged by the Commissioners and not the pool rate.

S. 8 accords to local authorities generally a facility obtained by a number of them in private Acts whereby, instead of borrowing from outside sources, they may use for capital expenditure moneys standing to the credit of various capital funds, subject to such moneys being repaid as and when they are required for the purposes of the capital funds in question. [519]

ARRANGEMENT OF SECTIONS

Section	Page
1. Prohibition of borrowing otherwise than from Public Works Loan Commissioners	160
2. Amendment of Public Works Loans Act, 1875	160
3. Provision of moneys for loans	160
4. Repayment of loans made by Public Works Loan Commissioners	161
5. Amendment of s. 5 of 4 & 5 Geo. 6, c. 14	162
6. Amendment of enactments relating to minimum rate of interest	162
7. Power to carry loans to consolidated loans funds and loans pools	162
8. Use by local authority of moneys forming part of capital funds	163
9. Laying of regulations before Parliament	164
10. Interpretation	164
11. Application to Scotland	164
12. Short title, commencement and extent	164

An Act to prohibit the borrowing of money by local authorities otherwise than from the Public Works Loan Commissioners, to amend section five of the Public Works Loans Act, 1941, and to make further provision with respect to local loans and the borrowing powers of local authorities. [28th March, 1945.]

1. Prohibition of borrowing otherwise than from Public Works Loan Commissioners.—(1) Notwithstanding anything in any enactment it shall not be lawful for a local authority, without the approval of the Treasury, to borrow money otherwise than from the Public Works Loan Commissioners :

Provided that the Treasury may by regulations direct that, subject to the provisions of the regulations, nothing in this section shall apply to borrowing in such manner, for such purposes or from such sources as may be prescribed by the regulations. [520]

(2) This section shall continue in force until the thirty-first day of December, nineteen hundred and fifty, and no longer, unless Parliament otherwise determines. [521]

Definitions.—For the meanings of “enactment,” “local authority,” see s. 10, *post*.

Public Works Loan Commissioners.—The Public Works Loan Commissioners were constituted under s. 4 of the Public Works Loans Act, 1875. For the present Commissioners (holding office until March 31, 1946) see s. 1 of the Public Works Loans Act, 1941.

Treasury Regulations.—Under the proviso to s. 1 (1) the Treasury have made the Local Authorities Loans (Exemptions) Regulations, 1945, S. R. & O., 1945, No. 680, *post*.

2. Amendment of Public Works Loans Act, 1875.—(1) The power of the Public Works Loan Commissioners to make loans under section nine of the Public Works Loans Act, 1875, shall include power to make loans to any local authority for any purpose for which the authority has power to borrow by virtue of any enactment. [522]

(2) Section eleven of the said Act (which, as amended by subsequent enactments, provides that a loan made thereunder shall be repayable within a period not exceeding the period authorised by a special Act relating to the loan or, if no period be so authorised, not exceeding fifty years) shall have effect, in relation to a loan made to a local authority for any such purpose, as if a period authorised for the repayment of the loan by or under the enactment authorising the authority to borrow for that purpose were the period authorised by a special Act relating to the loan. [523]

(3) So much of section forty-one of the said Act as empowers the said Commissioners to make regulations with respect to any fees or sums to be paid by applicants for loans shall cease to have effect; and there shall be paid in respect of loans made by the said Commissioners fees of such amounts and at such times as the Treasury may by regulations made after consultation with the said Commissioners prescribe. [524]

Public Works Loan Commissioners.—See note to s. 1, *ante*.

Definitions.—For the meanings of “enactment,” “local authority,” see s. 10, *post*.

Fees.—See the Public Works Loans (Fees) Regulations, 1945, S. R. & O., 1945, No. 679, *post*.

3. Provision of moneys for loans.—(1) The Treasury may, if they think fit, instead of raising any sums required for the local loans fund by the creation of local loans stock under section eight of the National Debt and Local Loans Act, 1887, or other securities under section twenty-eight of the Finance Act, 1935, issue the like sums to the local loans fund out of the Consolidated Fund of the United Kingdom or the growing produce thereof (hereinafter referred to as the “Consolidated Fund”). [525]

(2) For the purpose of providing sums to be issued out of the Consolidated Fund under the last foregoing subsection, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939. [526]

(3) Any sums issued to the local loans fund out of the Consolidated Fund under this section shall be repaid to the Exchequer out of the capital account of the local loans fund at such times and by such methods as the Treasury may direct, and interest thereon at such rate and at such times as the Treasury may direct shall be paid into the Exchequer out of the income account of the local loans fund. [527]

(4) Sums paid into the Exchequer under the last foregoing subsection shall be issued out of the Consolidated Fund at such times as the Treasury may direct and shall be applied by the Treasury as follows :—

- (a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit ;
- (b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this paragraph, have fallen to be paid out of the permanent annual charge for the National Debt. [528]

National Loans Act, 1939.—The Act must now be read with the National Loans Act, 1940 ; the National Loans (No. 2) Act, 1940 ; the National Loans Act, 1941 ; the National Loans Act, 1942 ; the National Loans Act, 1943 ; and the National Loans Act, 1944.

General Note.—See Preliminary Note, *ante*.

4. Repayment of loans made by Public Works Loan Commissioners.—

(1) Nothing in any enactment requiring that, where a sum borrowed by a local authority is repayable by instalments (whether of principal alone or of principal and interest combined), the first instalment shall be paid within a specified period from the date of borrowing shall be taken to prevent the first instalment of a sum so borrowed from the Public Works Loan Commissioners being made repayable within any longer period authorised under section eleven of the Public Works Loans Act, 1875 (which provides for the fixing of a period not exceeding five years). [529]

(2) Nothing in any enactment requiring that, where a sum borrowed by a local authority is repayable by such instalments, the instalments shall be equal and periodical shall be taken to prevent the Treasury from postponing under section thirty-seven of the said Act, the payment of any instalment of a sum so borrowed from the said Commissioners, or to prevent the said Commissioners or the local authority from agreeing to the postponement on any terms authorised by the Treasury under that section. [530]

(3) Where, under either of the said sections or otherwise, payment of interest on any sum borrowed by a local authority from the said Commissioners is postponed (whether the interest would, but for the postponement, have been payable separately from the principal or as part of an instalment of principal and interest combined), the Commissioners and the local authority may agree that it shall be a condition of the postponement that all or any of the interest accruing during the period of the postponement shall, at the end of that period, be added to the principal and bear interest and be repaid accordingly.

In this subsection references to postponing the payment of interest shall be construed as including references to arranging that the interval between the borrowing and the first payment of interest is longer than the interval between subsequent payments of interest, and references to the period of postponement as including references to the first mentioned interval. [531]

Definitions.—For the meaning of “ enactment,” “ local authority,” see s. 10, *post*.

Public Works Loan Commissioners.—See note to s. 1, *ante*.

Public Works Loans Act, 1875, ss. 11, 37.—S. 37 provides that the Treasury may, on the recommendation of the Loan Commissioners, postpone for any time not exceeding five years the payment of the instalments of principal and interest, or either, due or to become due in respect of a loan granted by the Commissioners for the purpose of any work, and that upon such terms and conditions for the completion and improvement of such work, and the ultimate payment of such principal and interest as the Treasury may on the said recommendation authorise.

5. Amendment of s. 5 of 4 & 5 Geo. 6, c. 14.—Section five of the Public Works Loans Act, 1941 (which authorises the Treasury to advance money to facilitate the conversion of local government securities) shall have effect subject to the following amendments :—

- (a) the power of the Treasury to advance moneys to a local or harbour authority under subsection (1) shall be extended so as to include power, where the authority with the approval of the Treasury makes a new issue of securities for the purpose of meeting the liability on any of its maturing securities, to advance to the authority, on such terms as the Treasury think fit, an amount equal to the price of issue of any part of the new issue of securities which is not taken up ;
- (b) the definition of the expression “ local authority ” in paragraph (b) of subsection (4) shall be extended so as to include any local authority within the meaning of this Act ; and
- (c) subsection (5) (which forbids advances under the section after the expiration of the Emergency Powers (Defence) Act, 1939) shall cease to have effect. [532]

Local authority.—The definition, as it stood before the present amendment, was : “ The expression ‘ local authority ’ means any of the following authorities, namely, the Common Council of the City of London, a local authority within the meaning of the Local Government Act, 1933, or the Local Authorities Loans (Scotland) Act, 1891, or a board or other authority to which the provisions of Part IX of the Local Government Act, 1933, are applied by an enactment (including a local Act) as if it were a local authority within the meaning of that Act.”

See also the meaning of the expression, for the purposes of the present Act, in s. 10, *post*.

6. Amendment of enactments relating to minimum rate of interest.—Each of the following enactments (which relate to loans made by the Public Works Loan Commissioners to local authorities) that is to say—

- (a) the proviso to subsection (2) of section fifty-two of the Small Holdings and Allotments Act, 1908 ;
- (b) subsection (2) of section seventy-two of the Housing (Scotland) Act, 1925 ; and
- (c) subsection (2) of section one hundred and twenty-three of the Housing Act, 1936 ;

shall have effect subject to the following amendments, that is to say—

- (i) in paragraph (a) (which provides that the loan shall be made at the minimum rate allowed for loans out of the local loans fund) the reference to the minimum rate shall be construed as a reference to the minimum rate applicable to the period for which the loan is made ;
- (ii) paragraph (c) (which provides that the longer duration of a loan shall not be taken as a reason for fixing a higher rate of interest) shall cease to have effect. [533]

Definitions.—For the meaning of “ enactment,” “ local authority,” see s. 10, *post*.
Public Works Loan Commissioners.—See note to s. 1, *ante*.

7. Power to carry loans to consolidated loans funds and loans pools.—Where, by virtue of any enactment or otherwise, moneys borrowed by a local authority for different purposes are carried to a common fund or account, then, notwithstanding anything in any enactment, scheme or regulation, moneys borrowed (whether before or after the commencement of this Act) from the Public Works Loan Commissioners may, if the authority think fit, be carried to that fund or account, subject to such conditions as the Treasury may determine (including conditions for securing that the basis for calculating any payment to be made to the authority in respect of those moneys out of moneys provided by Parliament shall not be affected by their being carried to the fund or account). [534]

Definitions.—For the meaning of “enactment,” “local authority,” see s. 10, *post*.

Public Works Loan Commissioners.—See note to s. 1, *ante*.

General note.—For a general note on this section, see Preliminary Note, *ante*.

8. Use by local authority of moneys forming part of capital funds.—

(1) Notwithstanding anything in any enactment, a local authority may use, for any purpose for which the authority has a statutory power to borrow, any moneys forming part of, but not for the time being required for the purposes of, any capital fund established by the authority; and where such moneys are so used the following provisions shall have effect:—

(a) the moneys so used shall be repaid to the capital fund as follows:—

(i) they shall be repaid as and when they are required for the purposes of the capital fund;

(ii) if not required to be repaid earlier under sub-paragraph (i) of this paragraph, they shall be repaid within the period within which a loan raised under the statutory power would be repayable, or at such time before the expiration of that period as the authority may resolve;

(iii) the repayment shall be made out of the revenue fund of the authority, or out of moneys which would have been applicable to the repayment of a loan raised under the statutory power, and shall be made by the method by which a loan raised under the statutory power would be repayable;

(b) in the accounts of the revenue fund of the authority, an amount equal to interest at the appropriate rate on the moneys so used and for the time being not repaid shall be credited to the capital fund and debited to the undertaking or purpose for which the moneys are so used;

(c) the statutory power shall be deemed to be exercised by the use of moneys under this section as fully in all respects as if a loan of the same amount had been raised in exercise of the power, and the provisions of any enactment as to the reborrowing of sums raised under that power shall apply accordingly. [535]

(2) In this section the following expressions have the meanings hereby respectively assigned to them—

(a) “capital fund” means any fund established for the repayment of debt, or as a reserve, or for the maintenance, renewal or repair of property, or for superannuation of staff, or for insurance, or otherwise for meeting future expenditure of a capital or non-recurring nature, or for any like purpose;

(b) “interest at the appropriate rate” means interest at such rate as may be determined by the authority to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory power;

(c) “revenue fund” means the county fund, general rate fund or other fund into which the receipts of the authority are payable;

(d) “statutory power to borrow” means a power to borrow conferred by or under any enactment, but does not include the power to borrow by way of temporary loan or overdraft conferred by paragraph (a) of subsection (1) of section two hundred and fifteen of the Local Government Act, 1933, or by paragraph (a) of subsection (1) of section one hundred and thirty-nine of the London Government Act, 1939. [536]

(3) The powers conferred by this section shall be deemed to be in addition to, and not in derogation of, the powers conferred by any other enactment. [537]

Definitions.—For the meaning of “enactment,” “local authority,” see s. 10, *post*.

9. Laying of regulations before Parliament.—(1) All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, but section one of the Rules Publication Act, 1893, shall not apply to regulations so made. [538]

(2) If either House of Parliament, within the period of twenty-eight days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall thereupon become void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations. [539]

(3) In reckoning any such period of twenty-eight days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [540]

10. Interpretation.—In this Act the following expressions have the meanings hereby respectively assigned to them :—

“enactment” includes an enactment in a local Act or in a provisional order confirmed by Parliament ;

“local authority” means any authority being, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate. [541]

11. Application to Scotland.—In the application of this Act to Scotland—

(a) for any reference to paragraph (a) of subsection (1) of section two hundred and fifteen of the Local Government Act, 1933, there shall be substituted a reference to subsection (4) of section sixty-seven of the Local Government (Scotland) Act, 1889, and to section forty-nine of the Burgh Police (Scotland) Act, 1903 ;

(b) for any reference to the Local Loans Act, 1875, there shall be substituted a reference to the Local Authorities Loans (Scotland) Act, 1891 ;

(c) for any reference to the general rate fund there shall be substituted a reference to the burgh fund. [542]

12. Short title, commencement and extent.—(1) This Act may be cited as the Local Authorities Loans Act, 1945. [543]

(2) This Act shall come into operation on such date as the Treasury may by order appoint. [544]

(3) This Act shall not extend to Northern Ireland. [545]

Such date as the Treasury may appoint.—By the Local Authorities Loans Act (Date of Commencement) Order, 1945, S. R. & O., 1945, No. 678, dated June 12, 1945, the Act was brought into operation on August 1, 1945.

FINANCE (NO. 2) ACT, 1945

(9 & 10 Geo. 6, c. 13)

PRELIMINARY NOTE

This Act contains two sections which affect local authorities :—

S. 21 places local authorities in the same position as individuals as regards deductions of income tax from interest payments in accordance with Rules 19 and 21 of the General Rules.

S. 57 provides for relief from estate duty under certain conditions in respect of land which is subsequently acquired by a government department or a local or public authority at a lower price than the value placed upon the land for estate duty purposes. [546]

21. Application of Rules 19 and 21 of the General Rules to interest, etc., payable by local authorities.—(1) Subject to the provisions of this section, in determining for the purpose of Rules 19 and 21 of the General Rules whether any sum payable by a local authority is payable wholly out of profits or gains brought into charge to tax, all profits or gains of the authority for the year of assessment in question shall, notwithstanding any restriction imposed by law upon the application of moneys belonging to the authority, be treated as being available for the payment of any sums to which those Rules apply which fall to be paid by the authority. [547]

(2) Subject to the provisions of this section, where, in any year of assessment, a local authority occupy any land and any tax for that year under Schedule A in respect thereof is, or apart from the said Rules would be, ultimately borne by them, there shall be deemed for the purposes of those Rules to be available to them for that year for the payment of any sums to which those Rules apply which fall to be paid by them an amount equal to the net amount on which tax is or would be borne by them as aforesaid. [548]

(3) Where any sum—

- (a) has been or is to be reimbursed to a local authority by the Crown or by any other person ; or
- (b) is taken into account in computing a deficiency which the Crown or any other person is under a legal obligation to make good to a local authority ; or
- (c) is charged to capital,

profits or gains which, apart from the provisions of this section, would not have been treated as available for the payment of that sum shall not be so treated by virtue of this section :

Provided that where any sum taken into account in computing such a deficiency as aforesaid exceeds the amount of the deficiency, this subsection shall not prevent profits or gains from being treated as available for the payment of the excess. [549]

(4) In this section, the expression “ local authority ”—

- (a) in relation to England, means any authority being, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate, and includes any joint board or joint committee all the constituent members of which are such authorities as aforesaid ;
- (b) in relation to Scotland, means any county council, town council, or district council, or any other authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, and includes any joint board or joint committee which is appointed under any enactment, order or scheme, and of which all the constituent authorities are such local authorities as aforesaid ; and
- (c) in relation to Northern Ireland, means the council of any county, county or other borough, urban or rural district, a board of guardians, the commissioners of a town, an education authority, and any committee or board appointed wholly or partly by a county or district council or board of guardians, or by several such councils or boards jointly :

Provided that, for the purposes of this section the Mayor and commonalty and citizens of the City of London and the Common Council of the City of London shall be deemed to be one local authority. [550]

(5) The preceding provisions of this section shall have effect as respects the year 1944-45 and all subsequent years of assessment. [551]

(6) Rule 6 of the Miscellaneous Rules applicable to Schedule D (which provides for charging the proper officer with the tax payable on any interest of money charged on any rates or assessments not chargeable as profits) is hereby repealed. [552]

General Rules.—These are the Rules applicable to Schedules A, B, C, D and E attached to the Income Tax Act, 1918. Rules 19 and 21 of these Rules provide the machinery for collection at source of tax in respect of yearly interest, annuities and other annual payments as well as royalties and other sums paid in respect of the user of patents.

Rule 19 provides that where any yearly interest of money, annuity or other annual payment is payable wholly out of profits or gains brought into charge to tax, no assessment is to be made upon the person entitled to such interest, etc., but the whole of the profits and gains are to be assessed and charged with tax on the person liable to the interest, etc., without distinguishing the same, and the person liable to make such payment is entitled, on making such payment, to deduct and retain the tax payable thereon.

Rule 21 provides that upon payment of any interest of money, annuity, or other annual payment charged with tax under Schedule D, or of any royalty or other sum paid in respect of the user of a patent, not payable, or not wholly payable, out of profits or gains brought into charge, the person by or through whom any such payment is made, is to deduct and account to the Crown for, the amount of the tax thereon.

The object of this section can best be explained in the words of the Solicitor-General in the House of Commons on November 27, 1945 (416 H. of C. Official Report 1418):

“What does [s. 21] set out to do. The position was that under Rules 19 and 21 of the rules applicable to all schedules of the Act of 1918, if a single individual was in receipt of income upon which he paid tax, and if out of that same income he paid interest to some other person, then, inasmuch as the income he received, and out of which he paid, had already borne tax, it should not again bear tax by having to be taxed in the hands of the recipient of the interest. That was the position before this Clause was drawn up.

“What does this Clause do? It simply places local authorities in the same position as individuals. Hitherto local authorities have been at this disadvantage. They had to regard the various incomes which they received as separate incomes, and, therefore, if they had to pay interest to some other person, they could not lump together the various streams of income which they received and pay the interest out of that and retain the tax upon it in accordance with the principle which I indicated. But they had to separate their income, and if one stream of income was not enough to pay the interest, they had to bear tax on the excess of the interest for that particular stream of income. All that this Bill sets out to do, is to put local authorities into precisely the same position as the individual.”

PART VI

MISCELLANEOUS

57. Relief from death duties on land subsequently acquired by government departments, local authorities, etc.—(1) The following provisions of this section shall have effect where an interest in land—

- (a) is compulsorily acquired by a government department or a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919; or
- (b) is acquired by agreement by such a government department or local or public authority as aforesaid, being a department or authority who, when the agreement is made, are authorised by, or are or can be authorised under, any enactment to acquire that interest in land compulsorily,

and, in either case, the date of acquisition falls within the period of five years from the seventeenth day of November, nineteen hundred and forty-four. [553]

(2) If it is proved to the satisfaction of the Commissioners of Inland Revenue—

- (a) that estate duty has been paid, or is payable, in respect of the whole of the interest, and that that interest was valued for the purposes of that duty as at a date after the thirty-first day of March, nineteen hundred and thirty-nine, and before the date of acquisition; and
- (b) that the persons to whom the interest passed beneficially on the death on which the duty was payable were the same persons as were beneficially interested therein at the date of acquisition, and the beneficial interests which they respectively took on the death were the same beneficial interests as they respectively had at the date of acquisition; and
- (c) that the interest was the same in all respects and with the same incidents at the date of acquisition and at all dates relevant for the purpose of ascertaining the duty; and

- (d) that the land in which the interest subsisted was in the same state and with the same incidents and held with the same land at the date of acquisition and at all dates relevant for the purpose of ascertaining the duty ; and
- (e) that the duty fell or falls to be wholly borne by the persons who were beneficially interested at the date of the acquisition according to the respective interests which they then had ; and
- (f) that the acquisition did not operate to sever the land from land with which it was held at any of the dates relevant for the purpose of ascertaining the duty,

the amount of duty payable in respect of the interest shall, where necessary, be reduced by repayment or remission of duty so as not to exceed the amount which would have been payable in respect thereof if the principal value of the interest had been equal to the amount of the compensation or price payable for the purchase thereof, including, in the case of compensation, any supplement thereto under section fifty-eight or section fifty-nine of the Town and Country Planning Act, 1944, or any corresponding enactment relating to Scotland. [554]

(3) Where the Commissioners are satisfied that the provisions of the last preceding subsection would have had effect but for all or any of the following facts, that is to say—

- (a) that the requirement in paragraph (a) thereof is not fulfilled in that the duty was paid or payable on part of the interest only ; or
- (b) that one or more of the requirements respectively specified in paragraphs (b) to (e) thereof are only partly fulfilled ; or
- (c) that the requirement in paragraph (f) thereof is not fulfilled,

they may grant to any of the persons paying or bearing any of the duty such relief by repayment or remission of duty as may seem to them just and reasonable. [555]

(4) The two last preceding subsections shall have effect in relation to any legacy or succession duty becoming payable on the principal value of the interest as they have effect in relation to estate duty, subject, however, to the modification that for the references to the death there shall be substituted references to the happening of any event or the expiry of any period upon which the legacy or succession duty became or becomes payable. [556]

(5) An interest which is limited to expire, or is subject to an interest which is limited to expire, shall not be treated for the purposes of this section as being the same in all respects at different dates. [557]

(6) In this section, the expression “ the date of acquisition ” means—

- (a) in the case of a compulsory acquisition, the date of the service of the notice to treat ; and
- (b) in the case of an acquisition by agreement, the date of the making of the agreement,

and the reference in this subsection to the service of the notice to treat shall be taken to include a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to the Town and Country Planning Act, 1944, or by virtue of any other enactment, is to be deemed to be served. [558]

General note on section.—This section provides that when land is acquired compulsorily or by agreement by a Government department or a local or public authority, at a price less than the value placed upon it for the purposes of estate duty at a date after March 31, 1939, and before the date of acquisition, relief will be given from estate duty, either by way of remission or repayment, provided that there has been a continuity in the beneficial ownership of the land and that no change in the land has taken place which would have caused a lower price to be paid for it. This provision applies where the date of acquisition falls within a period of five years from November 17, 1944.

Sub-s. (1).—“ *Public authority.* ” This is defined in s. 12 (2) of the Acquisition of Land

(Assessment of Compensation) Act, 1919, as meaning any body of persons, not trading for profit, authorised by or under any Act to carry on a railway, canal, dock, water or other public undertaking.

Date of acquisition.—See sub-s. (6), *supra*.

Sub-s. (2).—*Town and Country Planning Act, 1944*, ss. 58, 59. S. 58 deals with supplement to compensation in the case of owner-occupiers and s. 59 with supplement to compensation in respect of improvements.

ORDERS, CIRCULARS AND MEMORANDA

THE LOCAL AUTHORITIES LOANS ACT, 1945 (DATE OF COMMENCEMENT) ORDER, 1945

S. R. & O., 1945, No. 678

June 12, 1945

Whereas it is provided by subsection (2) of Section 12 of the Local Authorities Loans Act, 1945 (hereinafter referred to as "the Act") that the Act shall come into operation on such date as the Treasury may by Order appoint :

Now, therefore, the Treasury, in exercise of the powers conferred upon them by the Act and of all other powers enabling them in that behalf hereby make the following Order :—

1. The 1st day of August, 1945, is hereby appointed as the date on which the Act shall come into operation. [559]

2. This Order may be cited as the Local Authorities Loans Act, 1945 (Date of Commencement) Order, 1945. [560]

* * * * *

THE PUBLIC WORKS LOANS (FEES) REGULATIONS, 1945

S. R. & O., 1945, No. 679

June 12, 1945

In exercise of the powers conferred upon them by Subsection (8) of Section 2 of the Local Authorities Loans Act, 1945, and after consultation with the Public Works Loan Commissioners (hereinafter referred to as "the Commissioners"), the Treasury hereby make the following Regulations :—

1.—(1) In respect of every advance on account of a loan, being a loan agreed to be made by the Commissioners on or after the date on which these Regulations come into force, there shall be paid to the Commissioners by the person to whom the advance is to be made fees of the following amounts, that is to say—

- (a) in a case where the loan is a loan on rates, 4s. for every £100 or part of £100 of the advance, provided that in no case shall the fee payable under this sub-paragraph in respect of the advance be less than £1, and
- (b) in a case where the loan is a loan on property, amounts calculated in accordance with the scales set out in Part I or Part II of the Schedule according as to whether the property is or is not registered land, provided that in no case shall the fee payable under this sub-paragraph in respect of the advance be less than £2 5s. 0d., and
- (c) in every case the amount of any stamp duty, Counsel's fees and other disbursement incurred by the Commissioners in respect of the advance.

(2) The fees payable in respect of any advance shall be paid at the office of the Commissioners on or before the date on which the advance is to be made. [561]

2.—(1) These Regulations may be cited as the Public Works Loans (Fees) Regulations, 1945.

(2) These Regulations shall come into force on the 1st day of August, 1945. [562]

* * * *

SCHEDULE

PART I

Scale of fees for registered land

- (a) For the first £1,000 of the advance, at the rate of £1 2s. 6d. for every £100 or part of £100 of the advance falling within that range.
- (b) For the next £4,000 of the advance, at the rate of 10s. for every £100 or part of £100 of the advance falling within that range.
- (c) For the next £5,000 of the advance, at the rate of 7s. for every £100 or part of £100 of the advance falling within that range.
- (d) For the next £30,000 of the advance, at the rate of 2s. 6d. for every £100 or part of £100 of the advance falling within that range.
- (e) For the balance of the advance, at the rate of 1s. for every £100 or part of £100 of the advance falling within the balance. [563]

PART II

Scale of fees for land which is not registered land

- (a) For the first £1,000 of the advance, at the rate of £2 5s. 0d. for every £100 or part of £100 of the advance falling within that range.
- (b) For the next £4,000 of the advance, at the rate of £1 2s. 6d. for every £100 or part of £100 of the advance falling within that range.
- (c) For the next £5,000 of the advance, at the rate of 15s. for every £100 or part of £100 of the advance falling within that range.
- (d) For the next £60,000 of the advance, at the rate of 5s. for every £100 or part of £100 of the advance falling within that range.
- (e) For the balance of the advance, at the rate of 1s. for every £100 or part of £100 of the advance falling within the balance. [564]

THE LOCAL AUTHORITIES LOANS (EXEMPTIONS) REGULATIONS, 1945

S. R. & O., 1945, No. 680

June 12, 1945

In exercise of the powers conferred upon them by the proviso to Sub-section (1) of Section 1 of the Local Authorities Loans Act, 1945, the Treasury hereby make the following Regulations.

1.—(1) In these Regulations

- (a) "the Act" means the Local Authorities Loans Act, 1945,
- (b) "the appointed day" means the date on which the Act comes into operation.

(2) The Interpretation Act, 1889, shall apply for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [565]

2.—(1) Subject to the provisions of Regulation 3 hereof, nothing in Section 1 of the Act (which provides that notwithstanding anything in any enactment it shall not be lawful for a local authority, without the approval of the Treasury, to borrow money otherwise than from the Public Works Loan Commissioners) shall apply to borrowing by a local authority in the manner, for the purposes or from the sources following, that is to say :—

- (a) borrowing for any purpose (other than for the purpose of providing funds for the repayment of any stock) on mortgage, or on local bonds, or corporation bonds which are not marketable or quoted on any stock exchange.

Provided that

- (1) the total amount outstanding at any one time in respect of the local authority's borrowing in any manner covered by this sub-paragraph (excluding mortgages issued to the Public Works Loan Commissioners) and in respect of deposit receipts which have been issued by the local authority for purposes other than temporary borrowing in anticipation of revenue shall not exceed the highest total amount so outstanding on any date between the end of the authority's financial year 1938-39 and the appointed day, both dates inclusive, so, however, that the maximum amount which the local authority may borrow under this sub-paragraph shall
 - (i) be increased or reduced by the amount of any increase or reduction in the authority's outstanding debt of the kinds described above in this proviso, which results after the appointed day from the operation of any enactment transferring liabilities to or from the authority and from or to another local authority and
 - (ii) be increased by the amount of any mortgages issued by the authority after the appointed day in replacement of any advances to the authority from any capital fund (as defined in Section 8 (2) (a) of the Act) or any bank overdraft on loan or capital account which were outstanding at the appointed day.
- (2) the borrowing complies with the following conditions, namely
 - (i) it is for a definite period of not less than 7 years from the date of the borrowing or, if the provisions of any enactment authorising the borrowing or the terms of any sanction given for the borrowing do not permit borrowing for so long a period, for the longest period that the enactment or sanction permits, and
 - (ii) no part of the capital borrowed is repayable before the expiration of the minimum period mentioned in (i) except in equal instalments at regular intervals or by means of an annuity of constant amount, and
 - (iii) the minimum period mentioned in (i) is not determinable except by the lender in the event of an emergency;
- (b) temporary borrowing in any manner in the exercise of borrowing powers under Section 215 of the Local Government Act, 1933, or Section 139 of the London Government Act, 1939, or Section 67 (4) of the Local Government (Scotland) Act, 1889, or Section 49 of the

Burgh Police (Scotland) Act, 1903, or Section 46 of the Land Drainage Act, 1930, or any corresponding provision of a local Act : Provided that, in the case of temporary borrowing pending the raising of a loan, the provisions of this sub-paragraph shall not apply to borrowing by means of bills of exchange or promissory notes ;

- (c) borrowing in the manner and on the terms specified in directions given by the Minister of Health or by the Secretary of State for Scotland under Regulation 54BA (1) of the Defence (General) Regulations, 1939 ;
- (d) borrowing on mortgage from any trust or charitable fund held by a local authority or under its control ;
- (e) borrowing from a superannuation fund under subsection (3) of Section 21 of the Local Government Superannuation Act, 1937, or subsection (3) of Section 17 of the Local Government Superannuation (Scotland) Act, 1937, by any authority contributing to the fund ;
- (f) borrowing by one local authority of funds which belong to another local authority and which under any enactment the latter authority has power to lend ;
- (g) borrowing by means of instalments received after the appointed day on the security of a mortgage created before the appointed day ;
- (h) borrowing by the issue of securities where the local authority exercises an option to redeem any securities and offers to issue new securities in exchange for the securities to be redeemed ;
- (i) borrowing by the issue of securities in order to provide for the redemption of any securities ;
- (j) borrowing by the town council of a burgh in Scotland on the security of the common good for any purpose other than one for which the town council is authorised by or under any enactment to borrow ;

(2) For the purposes of sub-paragraphs (h) and (i) of the foregoing paragraph, the expression " securities " means debentures or annuity certificates issued under the Local Loans Act, 1875, as amended by any subsequent enactment, or stock. [566]

3. So long as the making of an issue of capital in the United Kingdom without the consent of the Treasury is prohibited by Defence Regulations made under the Emergency Powers (Defence) Acts, 1939 and 1940, the provisions of paragraph 2 of these Regulations shall not apply to any transaction to which such consent is required, either under such Defence Regulations or under any enactment passed on or after the 22nd day of May, 1940 (being the date of the commencement of the Emergency Powers (Defence) Act, 1940), unless and until such consent shall have been given. [567]

4. These Regulations may be cited as the Local Authorities Loans (Exemptions) Regulations, 1945. [568]

* * * * *

FURTHER REGULATIONS MADE BY THE PUBLIC WORKS LOAN COMMISSIONERS, AND APPROVED BY THE TREASURY PURSUANT TO SECTION 41 OF THE PUBLIC WORKS LOANS ACT, 1875

S. R. & O., 1945, No. 722

June 12, 1945

1. The Secretary or Assistant Secretary to the Public Works Loan Commissioners (hereinafter referred to as " the Loan Commissioners ") shall from time to time certify to the National Debt Commissioners the amount required

by the Loan Commissioners for the purposes of advances to be made under Section 9 of the Public Works Loans Act, 1875, and the date on which such advances are to be made. [569]

2. There shall be established a Public Works Loans (Advances) Account at the Bank of England under the control of the Loan Commissioners. Upon receipt of any such certificate as aforesaid the National Debt Commissioners shall, on or before the day upon which the advances are due to be made, pay from the Local Loans Fund to the said Public Works Loans (Advances) Account the sum specified in that certificate. Provided that the sum so paid together with amounts previously issued from the Local Loans Fund for the purpose of loans by the Loan Commissioners shall not at any time in the aggregate exceed the amount authorised by Parliament to be so issued. [570]

3. Subject to the provisions of Regulations 1 and 2 being complied with as respects any such certificate as aforesaid the Secretary or Assistant Secretary to the Loan Commissioners, shall sign orders to the Cashiers of the Bank of England for payment out of the said Public Works Loans (Advances) Account to each of the agents specified in the certificate the amount of the advances which he is authorised to receive and the signature of each of the said agents shall be sufficient discharge to the Governor and Company of the Bank of England. [571]

4.—(1) No order signed in pursuance of Regulation 3 shall be delivered to the agent named therein unless that agent has paid the amount of the fees payable in respect of the advance.

(2) The receipt of any such fee as aforesaid payable in respect of any advance shall be signed by the officer in charge of the accounts or, in his absence, by such person as may be nominated by the Secretary or Assistant Secretary to the Loan Commissioners. [572]

5. These Regulations shall come into force on the 1st day of August, 1945, and on that date the Regulations made on the 10th day of November, 1944, under the Public Works Loans Act, 1875, shall be rescinded. [573]

* * * *

TREASURY MINUTE, DATED 12TH JUNE, 1945, FIXING RATES OF INTEREST ON LOCAL LOANS

My Lords read Section 1 of the Public Works Loans Act, 1897 (60 & 61 Vict. c. 51) which empowers the Treasury from time to time to fix the rates of interest at which loans may be made out of the Local Loans Fund on the security of Local rates, and provides that the Treasury, in fixing the rates, shall have regard to the duration of the loans, and also that the rates shall be such as, in the opinion of the Treasury, are sufficient to enable the loans to be made without loss to the Fund.

They also read Section 4 of the Public Works Loans Act, 1918 (8 & 9 Geo. 5, c. 27), by which it is declared that the power of the Treasury under Section 1 of the Public Works Loans Act, 1897, as amended by Section 4 of the Public Works Loans Act, 1917 (7 & 8 Geo. 5, c. 32) to fix rates of interest on loans made out of the Local Loans Fund otherwise than on the security of local rates includes (subject always to the provisions of the said Sections) a power to fix rates of interest differing from the rates fixed for loans made out of that fund on the security of local rates, and a power to fix different rates of interest in respect of different loans and that in fixing the rate of interest the Treasury may take into account the nature and value of the security for the loan.

They further read Section 92 of the Housing Act, 1936 (26 Geo. 5 and 1 Edw. 8, c. 51) and Section 73 of the Housing (Scotland) Act, 1925 (15 & 16

Geo. 5, c. 15) as amended by Sections 25 and 28 of the Housing (Scotland) Act, 1935 (25 & 26 Geo. 5, c. 41) which provide that loans may be granted to companies, societies, associations and persons as defined in those Sections in connection with the provision of houses for the working classes.

The Local Authorities Loans Act, 1945, prohibits, with certain exceptions, all borrowing by a local authority otherwise than from the Public Works Loan Commissioners, and also abolishes the statutory provisions which made it necessary to charge on certain loans for housing, small holdings and allotments, the minimum rate of interest allowed for the time being for loans out of the Local Loans Fund whatever the period.

The present minimum rate of interest is a long-term rate, and notice has already been given to Parliament of My Lords' intention to introduce a scale of rates for loans to local authorities varying with the period for which a loan is made.

The Chancellor of the Exchequer recommends, and My Lords approve, the following rates to come into operation as from the 1st day of August, 1945, and to apply to loans advanced out of the Local Loans Fund on or after that date.

I

Loans to local authorities as defined in Section 10 of the Local Authorities Loans Act, 1945

Loans to territorial associations

Loans for not more than 5 years	2	per cent.
Loans for more than 5 but not more than 10 years	2½
Loans for more than 10 but not more than 15 years	2¾
Loans for more than 15 but not more than 30 years	3
Loans for more than 30 years	3½

II

Loans to housing associations as defined by the Housing Act, 1936, and the Housing (Scotland) Act, 1935

For any period up to 50 years	3½	per cent.
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III

Loans to companies and private persons, limiting their profits to the rate for the time being prescribed

For any period up to 40 years	3½	per cent.
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IV

Loans to companies and private persons not limiting their profits as aforesaid

For any period up to 40 years	3¾	per cent.
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V

Loans under the Harbours and Passing Tolls, etc., Act, 1861, with collateral security

For any period up to 50 years	3½	per cent.
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VI

Loans under the Harbours and Passing Tolls, etc., Act, 1861, without collateral security

For any period up to 50 years	3¾	per cent.
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VII

All other Loans

For any period	3¾	per cent.
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TREASURY NOTE

PROCEDURE FOR APPLICATIONS TO THE PUBLIC WORKS LOAN COMMISSIONERS

1. Where a Local Authority wishes to borrow from the Public Works Loan Commissioners and has to obtain the sanction or consent of any Government Department before it can raise the loan, that Department will, in the course of investigating the Local Authority's application for such sanction or consent, obtain from the Local Authority information which the Public Works Loan Commissioners will require before they can approve a loan, and will pass the information on to the Commissioners.

(In three cases, however, in which the Ministry of Health (or Welsh Board of Health) is the sanctioning Department, the information which the Commissioners require will be obtained by other Departments, *i.e.* the Ministry of Education in the case of loans for Education, the Ministry of Fuel and Power in the case of loans for Gas purposes, the Ministry of War Transport in the case of loans for Roads.)

It will not be necessary for a Local Authority to submit the application direct to the Public Works Loan Commissioners.

If the loan is one which requires the consent of the Treasury (Capital Issues Committee) the Sanctioning Department concerned will also obtain from the Local Authority at the same time the information required by that Committee and will pass the information on to it.

In due course, if the application is in order, a Local Authority will receive simultaneously (1) the sanction or consent of the appropriate Government Department (2) the consent, if required, of the Treasury (Capital Issues Committee) and (3) a letter from the Public Works Loan Commissioners approving the loan.

It is not until this stage is reached that a Local Authority need approach the Public Works Loan Commissioners direct.

Attached to the Commissioners' letter of approval will be a form of application for the actual advance of the loan, and when this form has been filled in and returned to the Commissioners the matter can proceed to completion.

The advances made by the Commissioners will be related to and will be contingent on the production of the appropriate consents to borrow. It will be a condition of the approval by the Commissioners of a loan that it shall be repaid in the maximum period authorised for repayment except that in the case of a loan for advances under the Small Dwellings Acquisition Acts or the Housing Acts the Local Authority should take up its advances for periods to correspond wherever possible to the periods for which it is making its own advances.

2. When the Local Authority is a Metropolitan Borough Council, and the consent required is that of the London County Council, a corresponding procedure will be followed, but substituting the London County Council in place of the Government Department as the consenting authority.

3. Cases will sometimes occur in which a Local Authority intends to raise the loan from its own internal funds or other sources allowed under the Exemptions Regulations and obtains a sanction or consent for that purpose from the appropriate Government Department, but subsequently decides that it is after all necessary to raise the whole or part of the loan from the Public Works Loan Commissioners.

In such cases the Local Authority should communicate this decision to the Department who actually issued the sanction or consent. That Depart-

ment will then obtain from the Local Authority the information required by the Public Works Loan Commissioners. They will also obtain the information required by the Treasury (Capital Issues Committee) if their consent is required and has not already been obtained.

The matter will then be dealt with as in paragraph 3.

4. In a number of cases Local Authorities will on the appointed day have in their possession sanctions issued before the Act came into operation, and which they have not yet exercised.

In such cases if a loan from the Public Works Loan Commissioners is desired and if Treasury (Capital Issues Committee) consent is not required or has already been obtained, the Local Authority should apply to:—

The Secretary,
Public Works Loan Board,
32, Cornhill, London, E.C.3.

But if such consent is required, the Local Authority should apply to the Department which issued the sanction.

5. Where a Local Authority wishes to borrow under a Local Act or Order which does not require the statutory consent of any Sanctioning Department, application should nevertheless be made to the Department which normally issues consents to borrowing for the purposes involved.

That Department will then obtain from the Local Authority the information required by the Public Works Loan Commissioners and by the Treasury (Capital Issues Committee) and the application will be dealt with generally as in paragraph 3 above.

This arrangement has been made so that, as far as possible, a Local Authority will only have to correspond with one Department, namely, the Sanctioning Department.

6. Borrowing to repay existing loans.

The policy which will in future be adopted in regard to proposals for borrowing to repay existing loans will be as follows:—

(a) Repayment of loans other than stock

Replacement may be by way of loans raised from the Public Works Loan Commissioners, or, within the limits of the Local Authorities Loans (Exemptions) Order, from other sources. In either case such replacement will continue to be subject to the provisions of Treasury Circular of the 18th November, 1944 (Capital Issues Control), except that, for the present, borrowing from the Public Works Loan Commissioners for the purpose of exercising an option to repay a mortgage (as defined in that Circular) before the date of final maturity will only be allowed where the rate of interest on the mortgage to be replaced exceeds 4%.

(b) Repayment of a stock

(i) A proposal to borrow to replace a stock otherwise than by a stock issue—whether the new borrowing is from the Public Works Loan Commissioners or on mortgage from some other source—will normally be agreed if the amount to be reborrowed is less than £250,000. Where the amount exceeds this sum the case for reborrowing otherwise than by a stock issue will be considered on its merits, and will depend on the general financial situation obtaining at the time and on the magnitude of the loan proposed.

(ii) For the present, permission will not be given for borrowing for the optional repayment of stock, whether from the Public Works Loan Commissioners or otherwise, unless the rate of interest payable on that stock exceeds 4%.

(c) General

(i) Where a local authority wishes to borrow from the Public Works Loan Commissioners for any of the above purposes application should be made direct to the Secretary to the Commissioners on a form to be obtained from the Commissioners.

(ii) Where the existing loan can be identified with a particular loan sanction, the period of the new loan from the Public Works Loan Commissioners must be for the unexpired term of that sanction. Where such identification is not possible the period of the new loan must not be less than 7 years or the unexpired term (if any) of the existing loan, whichever is the greater.

(iii) A local authority will not be permitted to borrow from the Public Works Loan Commissioners to repay a loan previously borrowed from the Commissioners.

(iv) Where a local authority wishes to borrow otherwise than from the Public Works Loan Commissioners in order to repay stock (whether the repayment is optional or otherwise), application should be made direct to the Treasury for approval to borrow the money otherwise than from the Commissioners, as provided in section 1 (1) of the Act.

(v) Where a loan is called in by the lender by virtue of an option to him or of a break clause the repayment will be treated as if the loan had reached its final date of maturity. [575]

Circular No. 72/45

MINISTRY OF HEALTH,
WHITEHALL, LONDON, S.W.1.

27th April, 1945.

To all Local Authorities (including Local Education Authorities)

SIR,

**COST OF LIVING BONUS FOR LOCAL AUTHORITIES' NON-INDUSTRIAL STAFFS
ADMISSIBILITY FOR PURPOSES OF GRANT OR REIMBURSEMENT BY THE
EXCHEQUER**

1. Following negotiations which were undertaken with the approval of the Government between the Associations of Local Authorities and bodies representing the employees of Local Authorities, a newly constituted body called the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services, was set up early in 1944. In accordance with the terms of the constitution of the Council there is to be an independent Chairman, nominated by the Minister of Health. Sir Horace J. Wilson, G.C.B., G.C.M.G., C.B.E., was nominated by the Minister and is now serving as Chairman. [576]

2. As Local Authorities are aware, Government Departments in determining the admissibility for grant or reimbursement of the cost of living bonus paid to Local Authorities' staffs have accepted claims on the basis, either that the bonus paid was not, in the case of each individual officer, in excess of the corresponding bonus that would have been payable to him if the Civil Service scale had been applied, or that the local authority's scale as a whole was not generally in excess of the Civil Service scale. Either basis has, in a number of cases, thrown a charge upon the Rate Fund, but Departments, while appreciating this, have not hitherto felt able to agree to accept for grant or reimbursement purposes scales of cost of living bonus which were in excess of the Civil Service scale. [577]

3. The National Joint Council promulgated a scale of cost of living bonus for application to officers of local authorities who are members of the appropriate Provincial Council, with effect as from the 1st April, 1944, which in certain particulars differed from the scale applicable to Civil Servants and was, in some instances, more favourable. It has been agreed, in consultation with His Majesty's Treasury, that scales promulgated by the National Joint Council may be accepted by Government Departments in connection with all grant-aided and reimbursement services, and that this acceptance shall operate with effect from the 1st April, 1944. [578]

4. Particulars of the war bonus scales of the Civil Service and National Joint Council since 1st April, 1944, are set out in the attached schedule. [579]

5. Cost of living bonus paid by Local Authorities on the salaries of Administrative, Professional, Technical and Clerical staffs will be recognised for grant or reimbursement as from the 1st April, 1944, provided it is not in excess of the rate currently payable on the Civil Service or National Joint Council scale, whichever is the higher. Any excess over whichever is the higher of the scales will be disregarded for grant or reimbursement purposes. These limits will apply whether the Local Authority is a member of the appropriate Provincial Council or not. [580]

6. In all cases the admissibility of the bonus paid will be determined by reference to the bonus appropriate to each individual officer. [581]

7. Local Authorities' staffs whose scales of remuneration have been fixed inclusive of war bonus in accordance with recommendations of the Rushcliffe Committee or by the Ministry of Health are, of course, excluded from the classes to whom this Circular relates. [582]

I am, Sir, etc.

* * * * *

The Clerk to the Local Authority.

SCHEDULE

CIVIL SERVICE WAR BONUS SCALES

From 1st April, 1944

Age	Basic Remuneration	Amount of Bonus
Under 16	—	5/- per week
16	—	6/6 " "
17	—	7/6 " "
18	—	10/- " "
19	—	11/- " "
20	—	{ Men 13/- " "
		{ Women 12/- " "
21 and over	Up to and including £1,000 per annum	{ Men 19/- " "
		{ Women 15/6 " "

From 1st November, 1944

Age	Basic Remuneration	Amount of Bonus
Under 16	—	6/6 per week
16	—	8/- " "
17	—	9/- " "
18	—	12/- " "
19	—	13/6 " "
20	—	{ Men 16/- " "
		{ Women 14/6 " "
		Salaried Staff
		Men £60 per annum
		Women £48 " "
		Weekly Paid Staff
21 and over	Up to and including £1,500 per annum	Men 23/- per week
		Women 18/6 " "

To obviate anomalies in the case of salaries in excess of £1,000 (£1,500) per annum the amount and incidence of the cost of living bonus are adjusted so as to ensure that no officer receives less in pay and bonus taken together than he would have received if his salary has been at the rate of £1,000 (£1,500) per annum.

Remuneration for the purpose of determining the amount of bonus includes allowances, and where quarters are provided rent free, account is taken not only of the value of the quarters but also of the pensionable or gratuitable value of board (including fuel).

The war bonus paid to part-time employees is a proportion, based on the hours of employment, of the bonus payable to a comparable full-time employee.

National Joint Council Scales

From 1st April, 1944

	<i>New Bonus (including existing bonus)</i>
Junior male officers under 21 years of age	9/6 per week
Junior female officers under 21 years of age	7/9 " "
Adult male officers whose normal remuneration does not exceed £700 per annum (excluding bonus)	19/- " "
Adult female officers whose normal remuneration does not exceed £700 per annum (excluding bonus)	15/6 " "
Adult male and female officers whose normal remuneration exceeds £700 per annum (excluding bonus)	£33 16s. per annum

From 1st January, 1945

New bonus (including existing bonus) :—

Adult male officers with salaries not exceeding £1,500 per annum	23/- per week
Adult female officers with salaries not exceeding £1,500 per annum	18/6 " "
Adult male and female officers with salaries exceeding £1,500 per annum	£33 16s. per annum

Junior Officers :—

	<i>Males per week</i>	<i>Females per week</i>
Aged 20	16/-	14/6
Aged 19	13/6	13/6
Aged 18	12/-	12/-
Aged 17	9/6	9/-
Aged 16	9/6	8/-
Under 16	9/6	7/9

The agreements are subject to the following conditions :—

(a) The bonus payable shall be determined by reference to normal salary exclusive of fees except where fees are recognised by the Local Authority as forming part of the whole of the salary of an officer.

(b) In the case of a whole-time officer holding two or more appointments there shall be ascertained the bonus which would have been payable had the officer been employed whole-time by one authority and been in receipt of a salary equal to the aggregate of the salaries he received for the several appointments, and in respect of each appointment held the officer shall be entitled to receive by way of bonus the same proportion of the amount so ascertained as is represented by the proportion of his total remuneration allocated to the appointment.

(c) An officer in a hospital or institution who enjoys free apartments and rations in addition to salary shall be entitled to receive one-half of the bonus.

(d) An officer in a hospital or institution who enjoys free apartments only or rations only in addition to salary shall be entitled to receive two-thirds of the bonus.

(e) An officer who enjoys emoluments of the kind set out below shall be entitled to receive a bonus in accord with the following scale :—

House only	Full bonus
House with light, water and heat	Five-sixths of the bonus
House with light, water, heat and two meals daily.	Three-quarters of the bonus

From 1st April, 1944

(f) An officer shall not receive a less bonus under the terms of this agreement than he is at present receiving.

(g) The bonus shall be applied so that the total remuneration (including bonus) of an officer whose normal salary exceeds £700 per annum shall not be less than that (£749 8s.) payable to an officer whose normal salary is £700.

From 1st January, 1945

(f) An officer who enjoys emoluments of the kind set out in paragraphs (c), (d) and (e) above shall continue to receive the appropriate proportion of the full bonus and the difference between the full bonus and the cash bonus received shall, for superannuation purposes, be added to the value of emoluments.

(g) An officer shall not receive a less bonus under the terms of this agreement than he is at present receiving.

(h) The bonus shall be applied so that the total remuneration (including bonus) of a male officer whose normal salary exceeds £1,500 per annum shall not be less than that (£1,559 16s.) payable to an officer whose normal salary is £1,500. [583]

FIRE PROTECTION

See, also, AIR-RAID PRECAUTIONS

	PAGE		PAGE
ORDERS, CIRCULARS AND MEMORANDA :—		National Fire Service (General)	
National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1945 - - -	179	(No. 2) Regulations, 1945 - -	182
National Fire Service (Alteration of Fire Areas) Regulations, 1945 -	180	National Fire Service (General) (No. 3) Regulations, 1945 - -	184
National Fire Service (General) Regulations, 1945 - - -	181	National Fire Service (Preservation of Pensions) (Police Firemen) (No. 2) Regulations, 1945 - -	185
		National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1945 - - -	186

ORDERS, CIRCULARS AND MEMORANDA

THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) (POLICE FIREMEN) REGULATIONS, 1945

S. R. & O., 1945, No. 156

February 8, 1945

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. In Regulation 13 of the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, for the words " Paragraph 10 of the Third Schedule to the National Fire Service (General) Regulations, 1941, except the proviso to that paragraph, shall apply " there shall be substituted the words " Paragraph 10 of the Third Schedule to the National Fire Service (General) Regulations, 1944, shall apply ", and at the end of the said Regulation there shall be added the following proviso :—

" Provided that any such resulting increase of pay as is mentioned in the proviso to that paragraph shall (however treated for the purposes of those Regulations) be taken into account for the purposes of these Regulations to such extent, if any, as the Secretary of State may direct under this paragraph ". [584]

2. These Regulations may be cited as the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1945. [585]

* * * * *

Note as to S. R. & O., 1945, No. 156.—The purpose of this amendment is to enable increases of pay, to which a fireman in the National Fire Service who was formerly a member of a police force would have been entitled if he had remained in the police force, to be taken into account for pension purposes to such extent as the Secretary of State may direct.

THE NATIONAL FIRE SERVICE (ALTERATION OF FIRE AREAS) REGULATIONS, 1945

S. R. & O., 1945, No. 158

February 9, 1945

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the National Fire Service (Alteration of Fire Areas) Regulations, 1945.

(2) The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(3) In these Regulations “ the principal Regulations ” means the National Fire Service (General) Regulations, 1944. [586]

2. As from the 11th February, 1945, the part of the county of Cardigan in Fire Area 22 shall be transferred from Fire Area 22 to Fire Area 21, the part of the county of Brecknock in Fire Area 22 and the county of Radnor shall be transferred from Fire Area 22 to Fire Area 20, and the part of the county of Brecknock in Fire Area 21 shall be transferred from Fire Area 21 to Fire Area 20 ; and accordingly the principal Regulations shall have effect as if for so much of Part I of the First Schedule thereto as relates to Region 8, being the Wales Civil Defence Region, there were substituted the provisions contained in the Schedule to these Regulations. [587]

3.—(1) The following transitional provisions shall have effect in relation to any county, borough or district which is transferred by these Regulations from one Fire Area to another.

(2) Any member of the Fire Force for the first Fire Area who, immediately before the transfer, was stationed in that county, borough or district or, being then temporarily posted to a reserve or other station or suspended from duty or placed on reserve, was last stationed in that county, borough or district before he was so posted or suspended or placed on reserve shall, on the said transfer taking effect, himself be transferred, by virtue of these Regulations and without more, to the Fire Force for the second Fire Area :

Provided that this paragraph shall have effect subject to any appointments or transfers which were made before the coming into force of these Regulations but so as to come into effect on or after the coming into force thereof.

(3) Where any fireman so transferred had, before his transfer, committed an offence against discipline or been suspended from duty, any proceedings commenced before the transfer under the Second Schedule to the principal Regulations may be carried on as if these Regulations had not been made, except that anything which falls to be done by, to or before the Fire Force Commander shall be done by, to or before the Fire Force Commander for the second Fire Area.

The references in this paragraph to the Fire Force Commander shall include references to any person authorised or required under paragraph 1 of Part IV of the said Second Schedule to act instead of the Fire Force Commander.

(4) Any notice served before the coming into force of these Regulations under the National Service Act, 1941, requiring a person to present himself after the coming into force of these Regulations at any place in a transferred county, borough or district to the Fire Force Commander for the first Fire Area shall have effect as if it required him to present himself there to the Fire Force Commander for the second Fire Area.

(5) The reference in this Regulation to the National Service Act, 1941, shall be construed as a reference to that Act as amended by or under any other Act. [588]

* * * * *

SCHEDULE

REGION 8

Fire Area 20

The county boroughs of Cardiff, Merthyr Tydfil and Newport.

The counties of Brecknock, Monmouth and Radnor.

The county of Glamorgan, excluding the part in Fire Area 21.

Fire Area 21

The county borough of Swansea.

The counties of Cardigan, Carmarthen and Pembroke.

The following districts in the county of Glamorgan. *Boroughs* : Neath, Port Talbot. *Urban Districts* : Glyncoirwg, Llwehwr. *Rural Districts* : Gower, Neath, Pontardawe.

Fire Area 22

The counties of Anglesey, Caernarvon, Denbigh, Flint, Merioneth and Montgomery. [589]

THE NATIONAL FIRE SERVICE (GENERAL) REGULATIONS, 1945

S. R. & O., 1945, No. 467

May 1, 1945

In pursuance of the powers conferred upon me by the Fire Services Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations :—

1.—(1) In the proviso to paragraph (2) of Regulation 9 of the National Fire Service (General) Regulations, 1944, and in the proviso to paragraph (4) of the said Regulation the words “ who has not attained the age of eighteen years ” are hereby revoked.

(2) Paragraph (5) of the said Regulation 9 is hereby revoked. [590]

2.—(1) These Regulations may be cited as the National Fire Service (General) Regulations, 1945.

(2) These Regulations shall come into operation on the second day of May, 1945. [591]

* * * * *

Note as to S. R. & O., 1945, No. 467.—*Under the present Regulations part-time firemen in the National Fire Service over eighteen years of age cannot resign from the Service and are liable on summary conviction to penalties for disobedience to lawful orders and for absence from duty. The purpose of the amendments made in paragraph (1) of Regulation 1 is to enable part-time firemen of any age to resign and to remove their liability to summary conviction for the offences mentioned. The amendment in paragraph (2) is consequential.*

THE NATIONAL FIRE SERVICE (GENERAL) (NO. 2) REGULATIONS, 1945

S. R. & O., 1945, No. 528

May 10, 1945

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. For references in the National Fire Service (General) Regulations, 1944, to the Regional Commissioner there shall, except as hereinafter provided, be substituted references, in the case of England and Wales, to the Chief Regional Fire Officer and, in the case of Scotland, to the Secretary of State. [592]

2. For paragraph (3) of Regulation 1 of the said Regulations there shall be substituted the following paragraph :—

“(3) In these Regulations—

the expression “Chief Regional Fire Officer” means, in relation to a Region, a member of the National Fire Service appointed by the Secretary of State to be Chief Regional Fire Officer ;

the expression “Fire Force Commander” means, in relation to a Fire Force or any of the members thereof, the Fire Force Commander in command of that Force or the person (whatever his rank, if any, in the National Fire Service) by whom the functions of the Fire Force Commander in command of that Force are for the time being exercisable under Regulation 4 of these Regulations ; and

the expression “Region” means a Fire Region, consisting of two or more Fire Areas, specified in the First Schedule to these Regulations.”

[593]

3. For paragraph (2) of Regulation 2 of the said Regulations there shall be substituted the following paragraph :—

“(2) In the event of a vacancy in the post of the Chief Regional Fire Officer in any Region or in the event of his being unable to act owing to illness or absence, his functions shall be exercisable by such officer of the National Fire Service as may have been designated by the Secretary of State.” [594]

4. In paragraph (2) of Regulation 4 of the said Regulations the words “(exercised either through the Chief Regional Fire Officer or otherwise)” shall be omitted. [595]

5. For Regulation 5 of the said Regulations there shall be substituted the following Regulation :—

“5. In addition to the stations and depots mentioned in the last preceding Regulation, there shall be such Reserve or other stations and depots in Great Britain as appear to the Secretary of State to be necessary or expedient for providing training for members of the National Fire Service or for any other special purpose, and the stations and depots shall be under the command of such persons as the Secretary of State may appoint.” [596]

6. In paragraph (4) of Regulation 12 of the said Regulations the words “or the Regional Commissioner” shall be omitted and for other references in the Regulation to the Regional Commissioner there shall be substituted references to the Secretary of State. [597]

7. In paragraph (3) of Regulation 14 of the said Regulations the words “and that no person shall be entitled to appeal under the proviso to subsection (1) of that section without the consent of the Regional Commissioner” shall be omitted, and for other references in the said Regulation to the Regional Commissioner there shall be substituted references to the Secretary of State. [598]

8.—(1) For references in paragraph 6 of Part II of the Second Schedule to the said Regulations to the Regional Commissioner there shall be substituted references to the Secretary of State; and at the end of the said paragraph there shall be added the following sub-paragraph :—

“(5) All or any of the functions of the Secretary of State under this paragraph may be exercised and discharged by such person or persons (whether or not a member or members of the National Fire Service) as the Secretary of State may direct.”

(2) For the reference in paragraph 1 of Part IV of the said Schedule to the Regional Commissioner there shall be substituted a reference to the Secretary of State.

(3) For sub-paragraphs (3) and (4) of paragraph 2 of the said Part IV there shall be substituted the following sub-paragraph :—

“(3) References to a fireman in a Fire Force shall be construed as references to a Fire Force Commander or Assistant Fire Force Commander (whether or not a member of a Fire Force), but the references in paragraph 1 to the Fire Force Commander and the reference (where it first occurs) in paragraph 3 to the Fire Force Commander shall be construed as references, in the case of England and Wales, to the Chief Regional Fire Officer and, in the case of Scotland, to a person appointed (either generally or in a particular case) by the Secretary of State, and any other reference to the Fire Force Commander shall be construed as a reference to a person or to a board, consisting of two or more persons, appointed (either generally or in a particular case) by the Secretary of State.”

(4) In the proviso to sub-paragraph (5) of the said paragraph 2 of the said Part IV the words “by virtue of a delegation under sub-paragraph (4) of this paragraph” shall be omitted.

(5) For sub-paragraph (7) of the said paragraph 2 of the said Part IV there shall be substituted the following sub-paragraph :—

“(7) Any Fire Force Commander or Assistant Fire Force Commander who feels aggrieved by a decision of the person or board appointed under sub-paragraph (3) of this paragraph awarding punishment shall, on giving notice in writing to the Secretary of State within seven clear days of the decision having been notified to him, be entitled to make representations against the confirmation of the punishment; but where a notice is given under this sub-paragraph the power of the Secretary of State to confirm the punishment with modifications shall extend to increasing it.” [599]

9. Any authority, direction or notice given, appointment, arrangement or designation made, power exercised or thing done under any provision of the National Fire Service (General) Regulations, 1944, by, to, before or with a Regional Commissioner shall, if it is in force immediately before the coming into operation of these Regulations, continue in force and have effect as if it had been given, made, exercised or done, in cases where in the relevant provisions the Secretary of State is by these Regulations substituted for the Regional Commissioner, by, to, before or with the Secretary of State and, in other cases, by, to, before or with the Chief Regional Fire Officer. [600]

10.—(1) These Regulations may be cited as the National Fire Service (General) (No. 2) Regulations, 1945.

(2) These Regulations shall come into operation on the fifteenth day of May, nineteen hundred and forty-five. [601]

* * * * *

Note as to S. R. & O., 1945, No. 528.—*The purpose of these Regulations is to amend the National Fire Service (General) Regulations, 1944, so as to make provision consequential upon the relinquishment by Regional Commissioners of their offices.*

THE NATIONAL FIRE SERVICE (GENERAL) (NO. 3) REGULATIONS, 1945

S. R. & O., 1945, No. 609

May 25, 1945

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, I hereby make the following Regulations :—

1. For sub-paragraph (5) of paragraph 1 of the Third Schedule to the National Fire Service (General) Regulations, 1944 (which relates to conditions of service), there shall be substituted the following sub-paragraph :—

“(5) Part-time firemen may be paid such sums, whether by way of retaining fees, compensation for loss of time or otherwise, and in such circumstances as the Secretary of State may from time to time determine.” [602]

2. For the proviso to sub-paragraph (3) of paragraph 8 of the said Third Schedule there shall be substituted the following proviso :—

“Provided that this sub-paragraph, so far as it relates to pay, shall not apply to any fireman who is or has since he became a fireman in the National Fire Service been reduced in rank for an offence against discipline or on conviction of a criminal offence so, however, that, where a fireman is or has been reduced in rank for any reason, his pay in the rank to which he is or has been reduced shall be—

(a) not less than an amount equal to his pay immediately before his reduction less an amount equal to the difference at the time of his reduction between the ordinary pay of the rank from which he was reduced and that of the rank to which he is or has been reduced ; and

(b) not less than the pay, if any, to which he would have been entitled had he immediately before his transfer to the National Fire Service been in the rank of fireman or constable in his brigade or force and had he remained a member of his brigade or force :

in this proviso the expression “ordinary pay” means in relation to any rank the pay (as determined in accordance with paragraph 1 of the Third Schedule to the National Fire Service (General) Regulations, 1944, or to the National Fire Service (General) Regulations, 1941, as circumstances require) of a member of the National Fire Service to whom this paragraph does not apply holding that rank.” [603]

3. Sub-paragraph (4) of paragraph 8 of the said Third Schedule is hereby revoked. [604]

4. These Regulations may be cited as the National Fire Service (General) (No. 3) Regulations, 1945. [605]

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Note as to S. R. & O., 1945, No. 609.—The purpose of Regulation 1 is to extend the power to pay retaining fees to part-time firemen who before becoming members of the National Fire Service were neither members of a private brigade providing local fire services nor part-time regular firemen. The purpose of Regulation 2 is to provide that a member of a fire brigade or police force who was transferred by virtue of the National Fire Service (General) Regulations, 1941, to the National Fire Service shall not on reduction in rank for an offence against discipline or on conviction of a criminal offence suffer a greater diminution of pay than a fireman who was not such a member would have suffered, and that in no case shall his pay be less than what it would have been had he always held the rank of fireman or constable in his former brigade or force.

THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) (POLICE FIREMEN) (NO. 2) REGULATIONS, 1945

S. R. & O., 1945, No. 1649

December 20, 1945

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations :—

1. These Regulations may be cited as the National Fire Service (Preservation of Pensions) (Police Firemen) (No. 2) Regulations, 1945. [606]

2. There shall be substituted for sub-paragraph (b) of paragraph (1) of Regulation 3 of the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, the following sub-paragraph :—

“(b) was, at some time before he became a member of the National Fire Service, a member of such a police force from which he retired without a pension and is, with the consent of the Secretary of State, designated as a person in whose case these Regulations shall have effect by the police authority who maintained the force of which he was last a member before he became a whole-time member of the National Fire Service or, if he has become such a whole-time member more than once, before he last became such a member ; or ” [607]

3. In paragraph (2) of Regulation 3 of the said Regulations for the definitions of “ the police force ”, and “ the police authority ” there shall be substituted the following definitions :—

“ ‘ the police force ’ and ‘ the police authority ’ mean respectively, in relation to any person, as the case may be, the police force from which he was so transferred as aforesaid, or the police force from which he so retired as aforesaid of which he was last a member, or the police force in which he so ceased to serve as aforesaid and the police authority who maintained that force ”. [608]

4. After Regulation 9 of the said Regulations there shall be inserted the following Regulation :—

“ 9A. A whole-time member of the National Fire Service who—

- (i) having been discharged in the circumstances described in paragraph (2), (3) or (4) of Regulation 8, or in such circumstances that on his discharge the Act of 1939 applies to him, or having been discharged and having rejoined the police force, is reappointed a whole-time member of the National Fire Service, or
- (ii) has been designated under sub-paragraph (b) of paragraph (1) of Regulation 3 as a person in whose case these Regulations shall have effect,

shall be treated for the purposes of the Act of 1921 as having rejoined, or again rejoined, the police force ”. [609]

* * * * *

Note as to S. R. & O., 1945, No. 1649.—*The purpose of the amendment made in Regulation 2 and of the new Regulation 9A (ii) contained in Regulation 4 is to enable a police authority, with the consent of the Secretary of State, to extend the benefits of the Police Pensions Acts, 1921 and 1926, to those of their former policemen who entered the National Fire Service otherwise than by transfer and to whom sections 1 to 6 of the Police and Firemen (War Service) Act, 1939, did not apply. The amendment in Regulation 3 is consequential. The purpose of the new Regulation 9A (i) contained in Regulation 4 is to extend to policemen who leave and rejoin the National Fire Service rights similar to those which they would have enjoyed under the Police Pensions Acts, 1921 and 1926, if they had left and rejoined the police force.*

THE NATIONAL FIRE SERVICE (PRESERVATION OF PENSIONS) (ACT OF 1925) REGULATIONS, 1945

S. R. & O., 1945, No. 1650

December 20, 1945

In pursuance of the powers conferred on me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations :—

1. These Regulations may be cited as the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1945. [610]

2. At the end of sub-paragraph (b) of paragraph (1) of Regulation 3 of the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, there shall be inserted the following sub-paragraph :—

“ or

(c) was, at some time before he became a member of the National Fire Service, a member of a fire brigade maintained by a local authority in which he was wholly and permanently employed on fire brigade duties and from which he retired without a pension and is, with the consent of the Secretary of State, designated as a person in whose case these Regulations shall have effect by the local authority who maintained the brigade in which he was so employed and of which he was last a member ”. [611]

3. In paragraph (2) of Regulation 3 of the said Regulations, for the definitions of “ the local brigade ” and “ the local authority ” there shall be substituted the following definitions :—

“ ‘ the local brigade ’ and ‘ the local authority ’ mean respectively, in relation to any person, as the case may be, the brigade from which he was so transferred as aforesaid, or the brigade in which he so ceased to serve as aforesaid, or the brigade in which he was so employed as aforesaid of which he was last a member and the local authority who maintained that brigade ”. [612]

4. After Regulation 9 of the said Regulations there shall be inserted the following Regulation :—

“ 9A. A whole-time member of the National Fire Service who—

- (i) having been discharged in the circumstances described in paragraph (2), (3) or (4) of Regulation 8, or in such circumstances that on his discharge the Act of 1939 applies to him, is reappointed a whole-time member of the National Fire Service, or
- (ii) has been designated under sub-paragraph (c) of paragraph (1) of Regulation 3 as a person in whose case these Regulations shall have effect,

shall be treated for the purposes of the Act of 1925 as having rejoined the local brigade ”. [613]

* * * * *

Note as to S. R. & O., 1945, No. 1650.—*The purpose of the amendment made in Regulation 2 and of the New Regulation 9A (ii) contained in Regulation 4 is to enable a local authority, with the consent of the Secretary of State, to extend the benefits of the Fire Brigade Pensions Act, 1925, to those of their former firemen who entered the National Fire Service otherwise than by transfer and to whom sections 1 to 6 of the Police and Firemen (War Service) Act, 1939, did not apply. The amendment in Regulation 3 is consequential. The purpose of the new Regulation 9A (i) contained in Regulation 4 is to extend to firemen who leave and rejoin the National Fire Service rights similar to those which they would have enjoyed under the Fire Brigade Pensions Act, 1925, if they had left and rejoined their fire brigade.*

FOOD AND DRUGS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE		PAGE
Preserves Order amended	— — 187	Britain v. Heppells (1932), Ltd.,	
Preserves Order amended	— — 187	[1945] 2 All E. R. 33	— 191
Defence (Sale of Food) Regulations, 1943, Regulation 3 amended	— 190	Sherwood v. Cox, Sherwood v. Day,	
CASES :—		[1945] 2 All E. R. 92	— 191
Watson v. Coupland, [1945] 1 All E. R. 217	— — — 190	Southwell v. Ross, [1945] 2 All E. R. 590	— 192
Pharmaceutical Society of Great Britain		Noss Farm Products, Ltd. v. Lilico, [1945] 2 All E. R. 609	— 192
		Perrins v. Smith, [1945] 2 All E. R. 706	— 192

ORDERS, CIRCULARS AND MEMORANDA

ORDER AMENDING THE PRESERVES ORDER, 1944

S. R. & O., 1945, No. 66

January 23, 1945

In exercise of the powers conferred upon him by Regulation 55 of the Defence (General) Regulations, 1939, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

The Preserves Order, 1944, shall be amended—

(a) by substituting the expression "Fourth Schedule" for the expression "Fifth Schedule" where it appears in paragraph (1) of Article 12 thereof; and

(b) by adding the following sub-paragraph after sub-paragraph (c) of paragraph 1 of Part III of the First Schedule thereto :—

"(d) on a first-hand sale or sale by wholesale of jam, mincemeat or fruit curd the seller may charge a reasonable sum by way of deposit in respect of any returnable package, as security for the return thereof, provided that the sum so charged shall be repaid by the seller to the buyer on the redelivery of the package to the seller, carriage paid, in such condition as is reasonable having regard to its condition when supplied and to ordinary wear and tear."

[614]

* * * *

EXPLANATORY NOTE

This Order amending the Preserves Order, 1944, (1) corrects a clerical error and (2) provides that on a first-hand sale or sale by wholesale of jam, fruit curd or mincemeat the seller may charge a deposit on a returnable package. The term "package" is defined in Article 1 of the Preserves Order, 1944, as "any outer receptacle in which containers are or were packed."

ORDER AMENDING THE PRESERVES ORDER, 1944

S. R. & O., 1945, No. 1449

November 15, 1945

In exercise of the powers conferred upon him by Regulation 55 of the Defence (General) Regulations, 1939, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Preserves Order, 1944, as amended, shall be further amended by substituting for Part 1 of the First Schedule thereto the provisions set out in the Schedule to this Order. [615]

2. This Order shall come into force on the 9th day of December, 1945. [616]

* * * *

THE SCHEDULE

[Provisions to be substituted for Part I of the First Schedule to the Preserves Order, 1944]

PART I

Maximum Prices of Jam Manufactured in the United Kingdom

Group	Description of Jam	Maximum First-hand Price					Maximum Wholesale Price					Maximum Retail Price																	
		Rate per dozen containers each containing—				Per cwt. net in 7 lb. con-tainers	Rate per dozen containers each containing—				Per cwt. net in 7 lb. con-tainers	Rate per container containing—																	
		$\frac{1}{2}$ lb.	1 lb.	2 lb.	7 lb.		$\frac{1}{2}$ lb.	1 lb.	2 lb.	7 lb.		$\frac{1}{2}$ lb.	1 lb.	2 lb.	7 lb.														
		s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.													
I	*A. Fresh fruit standard and full fruit standard jam of the following varieties :— Strawberry Apricot	6	4	11	11	23	0	74	8	99	6	6	10	12	10	24	9	80	0	106	8	—	8	1	3	2	5	7	11
II	Cherry Strawberry and Gooseberry Blackberry (or Bramble) Jelly Blackberry (or Bramble) Seed-less Apricot and Peach Raspberry Blackcurrant Jelly Greengage Bilberry Elderberry Jelly Elderberry Seedless	5	11	11	0	21	0	67	6	90	0	6	6	12	0	22	9	73	5	98	0	—	7 $\frac{1}{2}$	1	2	2	2 $\frac{1}{2}$	7	3
III	Blackberry (or Bramble) Plum and Strawberry Blackcurrant Plum and Raspberry Plum and Blackcurrant Pineapple Raspberry and Loganberry Gooseberry and Raspberry Damon Rhubarb and Raspberry	5	6	10	1	19	6	62	0	82	8	6	0	11	0	21	3	67	11	90	8	—	7	1	1	2	1	6	9

IV	..	Loganberry	5	4	9	9	18	6	58	3	78	0	5	10	10	7	20	2	64	1	85	6	-	6½	1	0½	2	0	6	5½
		Apple and Raspberry ..	..																										
		Apple and Blackcurrant ..	..																										
		Peach and Citrus Fruit ..	..																										
		Apple and Strawberry ..	..																										
		Raspberry and Redcurrant ..	..																										
		Gooseberry .. ..	..																										
		Peach .. ..	..																										
V	..	Plum	5	3	9	6	18	3	57	3	76	4	5	9	10	6	19	11	63	3	84	4	-	6½	1	0½	1	11½	6	4
		Apple and Loganberry ..	..																										
		Redcurrant Jelly ..	..																										
VI	..	Apple and Damson ..	5	1	9	1	17	3	54	0	72	0	5	6	10	0	18	11	60	0	79	4	-	6½	1	0	1	10½	6	0½
		Apple and Blackberry ..	..																										
		Marmalade .. ..	..																										
		Rhubarb .. ..	..																										
		Apple and Plum ..	..																										
		Apple Jelly .. ..	..																										
		Quince Jelly .. ..	..																										
		Any other variety ..	..																										
		*B. Special standard marmalade	5	4	9	9	18	6	58	3	78	0	5	10	10	7	20	2	64	1	85	6	-	6½	1	0½	2	0	6	5½

1. Loose Jam. The retail prices specified above shall not apply to the sale by retail of loose jam. The maximum price for such jam shall be—

(a) when sold in quantities of 8 ounces or less a price at the rate of one penny per ounce; and

(b) when sold in quantities of over 8 ounces a price at the rate per lb. calculated by reference to the retail price specified above for jam in a container containing 7 lb.

2. Jam Packed in Multiples of 7 lb. The maximum price on the sale of jam in a container containing any multiple of 7 lb. shall be a price at a rate per lb. calculated by reference to the price applicable on such sale to jam in a container containing 7 lb.

* 3. "Full fruit standard", "fresh fruit standard" and "special standard" have the same meanings respectively as in the Food Standards (Preserves) Order, 1944. [617]

EXPLANATORY NOTE

This Order amends the Preserves Order, 1944, by providing new maximum prices for jam and marmalade manufactured in the United Kingdom.

ORDER IN COUNCIL AMENDING REGULATION 3 OF THE DEFENCE (SALE OF FOOD) REGULATIONS, 1943

S. R. & O., 1945, No. 1454

November 16, 1945

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 to 1945, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that at the end of Regulation three of the Defence (Sale of Food) Regulations, 1943, the following paragraph shall be added :—

“(5) Where a sample has been taken under this Regulation, any proceedings in respect of the article sampled may be taken before a court having jurisdiction in the place where the sample was taken or, if the prosecutor so elects and the article sampled was sold and actually delivered to the purchaser, the proceedings may be taken before a court having jurisdiction at the place of delivery :

Provided that this Regulation shall not prejudice the taking of proceedings before any other court having jurisdiction in respect of such an offence.” [618]

* * * * *

Note as to S. R. & O., 1945, No. 1454.—*Regulation 3 of the Defence (Sale of Food) Regulations, 1943, enables samples to be taken for the purpose of enforcing the Regulations. The effect of the amendment is to enable proceedings in respect of any article sampled to be brought either before the court having jurisdiction where the sample was taken or before the court having jurisdiction where the article was delivered. The provision is similar to section 80 (2) of the Food and Drugs Act, 1938.*

CASES

Food and Drugs—Milk—Standard agreement with Milk Marketing Board—Milk left at roadside by producer for collection by Board's carrier—Property and risk in milk passing to Board at place of delivery—Milk tested after delivery by carrier—Whether sale effected at time of collection or at place of delivery—Sale—Sale of Goods Act, 1893 (c. 71), s. 1—Agricultural Marketing Act, 1933 (c. 31)—Food and Drugs Act, 1938 (c. 56), ss. 24, 68.

The respondent entered into an agreement with the Milk Marketing Board to sell to the Board all the milk produced at his farm. Churns were provided for this purpose by the Board and the respondent was to deposit the churns at an appointed place on or near his farm where they were collected by an agent of the Board, a carrier, to be ultimately delivered at the premises of the Nottingham Co-operative Society in Nottingham. By the terms of the agreement the respondent was to be responsible for the condition of the milk not only while it was under his control but also after it had left his control and had passed under the control of the carrier. It was provided that the property and risk in the milk should pass to the Board at the place of delivery when the milk was unloaded from the vehicle by which it was transported. The appellant, an inspector, sampled some of the milk when it arrived at the place of delivery in Nottingham and found that water had been added. The respondent was charged under the Food and Drugs Act, 1938, s. 24 (1) (c), with unlawfully selling for human consumption milk to which an addition had been made. The magistrates found that the milk was delivered by the respondent to the Board at the roadside where it was collected by the carrier and held that the property in the milk passed from the respondent to the Board when it was so collected. They, therefore, dismissed the case. The question for the determination of the court was whether the sale of milk took

place at the time the churns were collected by the Board's carrier or at the time when the milk was delivered at the premises of the Nottingham Co-operative Society :—

Held : the sale depended upon the transfer of property and the property in the milk passed to the Board according to the express terms of the contract only on delivery at Nottingham.—*WATSON v. COUPLAND*, [1945] 1 All E. R. 217 ; 109 J. P. 90 ; 43 L. G. R. 60, D. C. [619]

Food and Drugs—Article consisting of or comprising a substance recommended as a medicine—Sale by retail chemist—Article so sold prepacked and labelled when supplies purchased wholesale—Label purporting to state the active constituents of the article—Omission of one of the active constituents on label—Charge of selling a medicine without disclosing its composition—Pharmacy and Medicines Act, 1941 (c. 42), ss. 11 (1) (a), 13 (1) (a).

The respondents, retail chemists and druggists, had been selling, for a number of years, tablets known as "Taxol," a proprietary preparation for the treatment of constipation. These tablets were already packed in labelled bottles when the respondents purchased their supplies wholesale. The label showed the proportion of the ingredients contained in each tablet but omitted any reference to another ingredient, namely, aloes, a vegetable drug with a drastic purgative action. On behalf of the appellants, the Pharmaceutical Society of Great Britain, an information was preferred against the respondents, under the Pharmacy and Medicines Act, 1941, s. 11 (1) (a), for unlawfully selling by retail an article consisting of or comprising a substance recommended as a medicine, there not being written on the container or a label affixed thereto, the appropriate designation of the substance so recommended, or of each of the active constituents thereof, or of each of the ingredients of which it had been compounded. At the hearing the respondents relied on the Pharmacy and Medicines Act, 1941, s. 13 (1) (a), and pleaded that they did not know and had no reason to believe that the tablets contained aloes or any other active ingredient not named on the label. The appellants contended that the defence under s. 13 (1) (a) was only available in cases when the article sold was not recommended as a medicine. The magistrate, forming the opinion that the contention of the respondents was well founded and a defence in accordance with s. 13 (1) (a), dismissed the information. On appeal, the question for the court was whether the magistrate came to a correct determination in point of law :—

Held : it was a sufficient defence for a retailer who dealt in medicines to show that he did not know and had no reason to believe that the article sold by him contained an ingredient which did not appear on the label. The magistrate, therefore, arrived at a correct decision in law in his construction of the Pharmacy and Medicines Act, 1941, ss. 11 and 13.—*PHARMACEUTICAL SOCIETY OF GREAT BRITAIN v. HEPPELLETS (1932), LTD.*, [1945] K. B. 454 ; [1945] 2 All E. R. 33 ; 114 L. J. (K. B.) 520 ; 173 L. T. 286 ; 109 J. P. 162 ; 61 T. L. R. 378 ; 89 Sol. Jo. 282 ; 43 L. G. R. 167, D. C. [620]

Food and Drugs—Milk—Certificates of analysis—"Any certificate of analysis . . . shall be served with the summons"—Only the certificates in respect of the article which is the subject matter of the prosecution need be served—Food and Drugs Act, 1938 (c. 56), s. 80 (3).

On July 17, 1944, the appellant bought from each of the respondents, Cox and Day, a pint of milk which was submitted to analysis. On July 19, 1944, the appellant took a sample from the milk delivered at the respondents' premises which was also analysed. On August 14, 1944, the respondents were served with a summons for selling on July 17, 1944, to the appellant a pint of milk which was not of the nature, substance and quality demanded, contrary to the Food and Drugs Act, 1938. With the summons was served

a copy of the certificate of analysis in respect of the milk bought on July 17, but not a copy of the certificate in respect of the sample taken on July 19. At the hearing the summons was dismissed on the ground that the requirements of s. 80 (3) of the Act had not been complied with, because the respondents had not received with the summons every certificate of analysis made. On appeal by way of case stated :—

Held: upon the true construction of the Food and Drugs Act, 1938, s. 80 (3), the prosecutor is only required to serve with the summons the certificate or certificates of analysis in respect of the article which is the subject matter of the prosecution.—*SHERWOOD v. COX, SHERWOOD v. DAY*, [1945] K. B. 549; [1945] 2 All E. R. 92; 114 L. J. (K. B.) 333; 173 L. T. 323; 109 J. P. 142; 61 T. L. R. 437; 89 Sol. Jo. 328; 43 L. G. R. 116, D. C. [621]

Food and Drugs—Proceedings against manufacturer—Sample taken at retailer's premises at retailer's request—Sample divided into three portions—No portion of sample delivered to retailer—Procedure—Food and Drugs Act, 1938 (c. 56), s. 70 (1), (2)—Defence (Sale of Food) Regulations, 1943 (S. R. & O., 1943, No. 1553), art. 1.

The Food and Drugs Act, 1938, s. 70 (2), laid down the procedure to be followed when a sample of food was taken from a retailer's premises for the purpose of analysis and with a view to proceedings against the original seller or consignor. Since proceedings were not contemplated against the retailer, and since the samples were taken at his request, there was no necessity to inform him that the sample was being taken for analysis by the public analyst, or to deliver to him a portion of the sample so taken, as would be the procedure required under s. 70 (1) of the Act.—*SOUTHWELL v. ROSS*, [1945] 2 All E. R. 590; 173 L. T. 363; 110 J. P. 79; 61 T. L. R. 548; 89 Sol. Jo. 467. [622]

Food and Drugs—Misleading label—Proceedings against manufacturer—Original sale by manufacturer of article of food complying with current regulations—Subsequent alteration in law—Sale of article by retailer—Substance and quality of article of food not complying with new regulations—"Offence . . . due to an act or default of some other person"—Manufacturers not liable—Food and Drugs Act, 1938 (c. 56), s. 83—Defence (Sale of Food) Regulations, 1943 (S. R. & O., 1943, No. 1553), arts. 1, 2.

A manufacturer of food who sells an article of food with a label attached to it and who complies, at the time of the sale, with the then existing regulations, does not infringe the Food and Drugs Act, 1938, and is, therefore, not liable to prosecution under s. 83 (3) of that Act, if, due to a subsequent alteration of law, the sale of such article with such label attached becomes unlawful at the time when the retailer sells it. The words "due to his act or default" in s. 83 (3) must be construed as meaning "due to his wrongful act or default" and, therefore, a manufacturer cannot be made responsible under the section for a sale, which takes place after he has parted with the article of food, on the basis that it would be wrong for him, after the alteration of the law, to sell an article which he then is not proposing to sell and does not sell.—*NOSS FARM PRODUCTS, LTD. v. LILICO*, [1945] 2 All E. R. 609; 173 L. T. 251; 109 J. P. 211; 61 T. L. R. 488; 89 Sol. Jo. 413; 43 L. G. R. 289, D. C. [623]

Food and Drugs—Licensing of slaughter-houses—Cow slaughtered in unlicensed shippen—Shippen not "premises used in connection with the business of slaughtering animals"—Shippen not used as "slaughter-house"—"Premises"—"Slaughter-house"—Food and Drugs Act, 1938 (c. 56), ss. 57 (1), 100 (1).

A butcher had permission from a farmer to keep his cow in a shippen which was in the occupation of the farmer. The butcher killed his cow in

the shippen with the intention of selling the flesh for human consumption. He was charged with an offence under the Food and Drugs Act, 1938, s. 57 (1) (b), in that he had used the premises as a slaughter-house without the occupier of the premises holding a licence to use those premises as a slaughter-house. By s. 100 (1) of the Act, "premises" were defined as including "messuages, buildings, land, easements and hereditaments of any tenure," and "slaughter-house" as "any premises used in connection with the business of slaughtering animals, the flesh of which is intended for sale for human consumption." The farmer was not a slaughterer of animals, and the shippen had never been used in connection with the business of slaughtering animals; in fact, no animals had been slaughtered there before. It was contended by the prosecution that, even though the premises themselves did not come within the definition of "slaughter-house," by killing the cow there the butcher had used them as a "slaughter-house":—

Held: since the shippen was not a "slaughter-house" within the definition in s. 100 (1) of the 1938 Act, by killing his cow there the butcher had not used it as a "slaughter-house" within the meaning of the Act, and he had not, therefore, committed an offence under s. 57 (1) (b) of the Act.—*PERRINS v. SMITH*, [1946] K. B. 90; [1945] 2 All E. R. 706; 174 L. T. 38; 110 J. P. 91; 62 T. L. R. 72; 90 Sol. Jo. 44; D. C. [624]

GAS

ORDERS, CIRCULARS AND MEMORANDA :—

PAGE

Gas Fund (Contribution) Order, 1945 - - - - - 193

ORDERS, CIRCULARS AND MEMORANDA THE GAS FUND (CONTRIBUTION) ORDER, 1945

S. R. & O., 1945, No. 25

January 6, 1945

The Minister of Fuel and Power in pursuance of the powers conferred upon him by Section 7 of the Gas Regulation Act, 1920, as amended by the Gas Undertakings Act, 1934, hereby prescribes as follows :—

1. The rate of contribution to the Gas Fund for the year 1945 shall be :—

- (a) one shilling for each five thousand therms in the form of gas sold during the year 1944 (excluding gas sold to other undertakers in bulk for distribution and gas supplied separately for industrial purposes only); and
- (b) sixpence for each five thousand therms in the form of gas supplied separately for industrial purposes only during the year 1944.

[625]

2. Such contribution shall be paid on or before the 1st April, 1945, to the Minister of Fuel and Power at Heyhouses Lane, Lytham St. Annes, Lancashire, by all Gas Undertakers with respect to whom an Order under the Gas Regulation Act, 1920, shall have been made or to whom subsection (3) of section 7 of that Act applies by virtue of any public general Act, special Act or Special Order. [626]

3. Payment of the contribution shall be by cheque made payable to the Minister of Fuel and Power and crossed "Bank of England". [627]

4. This Order may be cited as the Gas Fund (Contribution) Order, 1945. [628]

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GOVERNMENT CONTROL

PAGE

ORDERS, CIRCULARS AND MEMORANDA :—

Defence (General) Regulations, 1939, Regulation 54B amended - - - - 194

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION 54B OF
THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1945, No. 505

May 9, 1945

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. For paragraph (1) of the Regulation fifty-four B of the Defence (General) Regulations, 1939, (which confers power to give directions to local authorities) there shall be substituted the following paragraph :—

“(1) A competent authority may, if it considers it necessary or expedient [in the interests of the public safety, the defence of the realm, the maintenance of public order, or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community], give directions to any local authority to perform such functions as may be specified in the directions, being functions relating to any of the following matters :—

- (a) the collection, treatment and disposal of salvage ;
- (b) the appointment of food control committees, the establishment and carrying on of community feeding centres and the heat treatment of milk ;
- (c) the destruction of pests ;
- (d) the provision and maintenance of transport services and facilities, and the improvement and maintenance of highways and bridges ;

and any local authority to which such directions are given shall comply with the directions and shall have power so to do notwithstanding any obligation or limitation imposed on the local authority by or by virtue of any Act or other instrument relating to the powers of the local authority.”

[629]

2. In paragraph (1A) of the said Regulation for the words “ their functions ” there shall be substituted the words “ any of the functions aforesaid ”.

[630]

3. Any directions given under the said Regulation which are in force immediately before the coming into operation of this Order shall, notwithstanding the amendment of the Regulation by this Order, continue in force until revoked. [631]

The original para. (1) enabled directions to be given requiring local authorities to perform such functions as the competent authority thought proper in the interests of the public safety, the defence of the realm, the maintenance of public order, or the efficient prosecution of the war, or for maintaining supplies or services essential to the life of the community. The new paragraph restricts the functions to specific matters specified in sub-para. (a), (b), (c) and (d). Existing directions, nearly all of which deal with the specific matters referred to, are kept in force by Art. 3. S. R. & O., 1945, No. 1624, later substituted for the words in square brackets in para. (1) the words “ for any of the purposes specific in subsection (1) of section 1 of the Supplies and Services (Transitional Powers) Act, 1945.”

HARBOURS

	PAGE		PAGE
ORDERS, CIRCULARS AND MEMORANDA :—		Public Utility Undertakings (Control of Wreck, etc.) (Revocation)	
Public Utility Undertakings (Prevention of Publications) (Revocation) Order, 1945	195	Order, 1945	195

ORDERS, CIRCULARS AND MEMORANDA

THE PUBLIC UTILITY UNDERTAKINGS (PREVENTION OF PUBLICATIONS) (REVOCATION) ORDER, 1945

S. R. & O., 1945, No. 622

May 29, 1945

The Minister of War Transport, in exercise of the powers conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939, having been duly designated by the Treasury as a competent authority for the purposes of the said Regulation in relation to lighthouse undertakings, and of all other powers enabling him in that behalf, hereby orders as follows :—

1. The Orders and Directions specified in the Schedule to this Order are hereby revoked. [632]

2. This Order shall come into force on the 12th day of June, 1945, and may be cited as "The Public Utility Undertakings (Prevention of Publications) (Revocation) Order, 1945". [633]

* * * * *

SCHEDULE

Directions, dated April 1st, 1941, (S. R. & O. 1941 (No. 452) II, p. 1479).

The Public Utility Undertakings (Prevention of Publications) Order, 1941, (S. R. & O. 1941 (No. 485) II, p. 1480).

The Public Utility Undertakings (Prevention of Publications) Order, 1942, (S. R. & O. 1942 (No. 164) II, p. 1917).

Directions, dated March 20th, 1942, (S. R. & O. 1942 (No. 508) II, p. 1918).

Directions, dated April 10th, 1942, (S. R. & O. 1942 (No. 685) II, p. 1919).

The Public Utility Undertakings (Prevention of Publications) Order, 1944, (S. R. & O. 1944 (No. 1449) II, p. 1384). [634]

Note as to S. R. & O., 1945, No. 662.—*The effect of the Public Utility Undertakings (Prevention of Publications) Order, 1944, was to confine the application of the restrictions and suspensions provided by the other Orders and Directions specified in the Schedule to this Order, with modifications, to inland navigation, dock, harbour, pier and lighthouse undertakings, with respect to which notice was given to the undertakers by the Minister in accordance with the Order. The restrictions and suspensions provided by the Orders and Directions were restrictions imposed on the publication of the accounts, and any reports or other documents disclosing information contained in the accounts, of certain classes of public utility undertakings, and suspensions ordered of certain statutory and other obligations of the undertakers to publish any such accounts, reports or other documents. The present Order now removes the restrictions and suspensions in relation to the undertakings affected by the Order of 1944.*

THE PUBLIC UTILITY UNDERTAKINGS (CONTROL OF WRECK, ETC.) (REVOCATION) ORDER, 1945

S. R. & O., 1945, No. 1027

August 13, 1945

The Minister of War Transport in exercise of the powers conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939 (having

been duly designated by the Treasury as a competent authority for the purpose in relation to lighthouse undertakings), and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The Public Utility Undertakings (Control of Wreck, Etc.) Order, 1943, is hereby revoked. [635]

2. This Order shall come into force on the thirteenth day of August, 1945, and may be cited as the Public Utility Undertakings (Control of Wreck, Etc.) (Revocation) Order, 1945. [636]

* * * * *

Note as to S. R. & O., 1945, No. 1027.—*The effect of the Order which is now revoked was to relax certain statutory and other restrictions imposed with respect to dock, harbour, lighthouse, canal and inland navigation undertakings on the exercise of the powers of the undertakers with regard to wreck or other dangers to navigation.*

HIGHWAYS

CASES :—

	PAGE		PAGE
Lewys v. Burnett and Dunbar [1945] 2 All E. R. 555	196	Fisher v. Ruislip-Northwood Urban District Council, [1945] 2 All E. R. 458	197

CASES

Negligence—Licensee—Concealed danger or trap—Passenger in lorry—Railway bridge over road—Headroom of bridge reduced—Passenger killed by contact with low bridge—No warning given to deceased—Duty of lorry driver to warn passenger.

Highways—Nuisance—Railway bridge over road—Headroom reduced below statutory limit by highway authority in repairing road—Negligent exercise of statutory powers—Passenger in lorry killed—Liability of highway authority.

The first two defendants, a lorry driver and his mate, offered a soldier a lift in their lorry. The route they were about to take passed beneath a railway bridge which, to their knowledge, but not to that of their passenger, had a headroom of only 8 ft. 9 in. The bridge had originally a headroom of 9 ft. 3 in., a minimum headroom of 9 ft. having been prescribed by the statute under which it was erected. The headroom had become reduced to 8 ft. 9 in. because the third defendants, a highway authority, in the course of maintaining the highway by spraying its surface with tar and stone chip-pings had raised its level by 6 in. Although a fatal accident had occurred in 1940, when a passenger standing up in a lorry was killed while passing under the bridge, and in spite of two warnings given to the third defendants that the lack of sufficient headroom was dangerous, the third defendants had taken no steps to increase the headroom, but had merely placed signs on each side of the bridge stating that the headroom was 8 ft. 9 in. The first two defendants failed to warn their passenger of the danger ahead, and when the lorry passed beneath the bridge his head was struck and he sustained fatal injuries. The widow of the deceased claimed damages under the Fatal Accidents Acts :—

Held : (i) the first two defendants were negligent in failing to warn the deceased of the danger of which they knew and of which he did not know. Even assuming that the duty to warn gratuitous passengers of impending dangers began only when a passenger actually entered the vehicle, the first two defendants had committed a breach of that limited duty because, once

the deceased had embarked on the journey, they could neither see him nor give him any warning when they approached the bridge.

(ii) The third defendants had negligently exercised their statutory powers as a highway authority in raising the level of the road and thereby reducing the headroom of the bridge to a dangerous extent. The third defendants had, thereby, also created a nuisance and not the less so because they placed warning signs on either side of the bridge, which might not be observed by passengers in modern fast-moving vehicles. With knowledge, therefore, of their having created a nuisance, the third defendants had failed to abate it.—*LEWYS v. BURNETT & DUNBAR*, [1945] 2 All E. R. 555; 173 L. T. 307; 61 T. L. R. 527; 89 Sol. Jo. 415; 43 L. G. R. 186. *Sub nom.* *LEWYS v. BECCLES CORPN.*, 109 J. P. 253. [637]

Highways—Obstructions—Air-raid shelter erected in roadway by local authority—Statutory authority to erect and maintain shelter—Lighting—Shelter sometimes illuminated—Trap—Car colliding with shelter—Duty to take care not expressly imposed upon local authority—Whether local authority under duty to give warning of danger—Public Health Act, 1875 (c. 55), s. 161—Civil Defence Act, 1939 (c. 31), s. 9 (1).

On July 21, 1942, during the hours of darkness, the appellant was driving a motor car in Fore Street, Ruislip, in the county of Middlesex. He was driving with due care and was on his proper side of the road. There was, unknown to him, a surface air-raid shelter standing in the roadway directly in his path, and his car came into collision with it, as a result of which the appellant sustained injuries. The shelter, which had been erected by the second respondents under the powers contained in the Civil Defence Act, 1939, was under the management of the first respondents. The shelter was equipped with an external lighting system, consisting of red danger lamps which were controlled by a switch inside the shelter. It was the duty of the air-raid wardens, in whose area the shelter was situated, to see that the light was duly turned on at the appropriate time. At the time of the accident the lights were not in operation. On appeal, the question for the determination of the court was whether the respondents owed a duty to the appellant, as a member of the public lawfully using the highway, to take reasonable steps, by lighting or otherwise, to warn him of the danger:—

Held: (i) the Civil Defence Act, 1939, did not impose a duty on the undertakers to exercise care in respect of the construction or maintenance of shelters erected by them. If the legislature authorised the construction and maintenance of a work which would be safe or dangerous to the public according as to whether reasonable care was taken or not in its construction or maintenance, the fact that no duty to take such care was expressly imposed by statute could not be relied on as showing that no such duty existed.

Great Central Ry. Co. v. Hewlett, [1916] 2 A. C. 511, *distinguished*.

Sheppard v. Glossop Corpn., [1921] 3 K. B. 132 and *Morrison v. Sheffield Corpn.*, [1917] 2 K. B. 866, *applied*. *Baldock v. Westminster City Council* (1918), 88 L. J. K. B. 502, *not followed*.

(ii) there was no distinction between a statutory power and a common law power where all that the statute did was to authorise in general terms the construction of an obstacle on the highway which would be a danger to the public unless precautions were taken. The undertakers in each case, by exercising a power, whether statutory or common law, placed themselves in a relationship to the public which from its very nature imported a duty to take care.

(iii) it was a misconception to treat a duty to take care as a duty to light the obstruction. The duty was to take reasonable steps to prevent the obstruction becoming a danger to the public and to give the public due warning of its existence both by night and day.

(iv) *Wodehouse's case*, [1940] 2 K. B. 298, *Lyus's case*, [1940] 2 K. B. 662, and *Fox's case*, [1941] 2 K. B. 120, could not be reconciled with *Morrison's case*, [1917] 2 K. B. 866, *Polkinghorn's case*, [1938] 1 All E. R. 339, or *Foster's case*, [1942] 1 All E. R. 304. Since the Court of Appeal was free to choose between conflicting decisions of its own, the first named three cases would not be followed.

Young v. Bristol Aeroplane Co., Ltd., [1944] 1 K. B. 718, *applied*.

(v) in the circumstances, the respondents were liable to the appellant.

Decision of Macnaghten, J. ([1944] 2 All E. R. 149), *reversed*.—*Fisher v. RUISLIP-NORTHWOOD URBAN DISTRICT COUNCIL*, [1945] K. B. 584; [1945] 2 All E. R. 458; 173 L. T. 261; 62 T. L. R. 1; 89 Sol. Jo. 434; 43 L. G. R. 224, C. A. [638]

HOSPITALS

STATUTES :—	PAGE		PAGE
Nurses Act, 1945	198	Circular 5/45 : Educational Provision for Civilian Patients in Hospitals and Sanatoria	207
ORDERS, CIRCULARS AND MEMORANDA :—		Circular 97/45 : Nurses Acts, 1943 and 1945	209
Nurses Act, 1943 (Commencement)		Circular 162/45 : Pre-Nursing Courses in Secondary and Technical Schools	213
Order, 1945	199		
Nurses Regulations, 1945	200		
Nurses Agencies Regulations, 1945	202		

STATUTES

THE NURSES ACT, 1945

(8 & 9 Geo. 6, c. 6)

PRELIMINARY NOTE

The purpose of this Act, which received the Royal Assent on February 15, 1945, is to correct a drafting error in Part II of the Nurses Act, 1943, and Part II of the Nurses (Scotland) Act, 1943. Part II of each of these Acts deals with the conduct of agencies for the supply of nurses to the sick, generally known as nurses co-operations, the Acts being intended as a safeguard for private patients or hospital authorities by protecting them from unfair treatment such as a demand for excessive fees for the ministrations of unqualified nurses on the part of nursing agencies to whom they might apply for assistance in cases of illness. In order to prevent the occurrence of such abuses, the Act of 1943 laid down certain conditions to which those who run such agencies would be obliged in future to conform. These regulations included the duty only to supply nurses with accepted professional qualifications, to keep detailed records in every case and to obtain a licence from the local licensing authority. At the time Part II of the Acts were re-examined by the Minister of Health to fix the date on which their provisions were to become operative, it was first noted that the expression in the Acts "agency for the supply of nurses" was so broad and indefinite that it might be taken to cover such excellent organisations as county and district nursing associations (see 134 H. of L. Official Report 648). The present Act exempts from the regulating provisions of Part II of the Acts of 1943 the county and district nursing associations and other organisations doing similar work in rural areas. [639]

An Act to exclude county and district nursing associations and other similar organisations from the operation of Part II of the Nurses Act, 1943, and Part II of the Nurses (Scotland) Act, 1943. [15th February, 1945.]

1. Amendment of definition of "agency for the supply of nurses".—In Part II of the Nurses Act, 1943 (which imposes certain requirements on

persons carrying on agencies for the supply of nurses), the expression "agency for the supply of nurses" shall not include the business carried on by any county or district nursing association or other similar organisation, being an association or organisation established and existing wholly or mainly for the purpose of providing patients with the services of a nurse to visit them in their homes without herself taking up her residence there. [640]

"Agency for the supply of nurses."—The definition in s. 13 of the Nurses Act, 1943 (*supra*), is :—

"The business (whether or not carried on for gain and whether or not carried on in conjunction with another business) of supplying persons to act as nurses, or of supplying persons to act as nurses and persons to act as midwives."

Object of the section.—See Preliminary Note, *ante*.

2. The expression "agency for the supply of nurses" not to include certain associations and organisations in Scotland.—In Part II of the Nurses (Scotland) Act, 1943 (which imposes certain requirements on persons carrying on agencies in Scotland for the supply of nurses), the expression "agency for the supply of nurses" shall not include the business carried on by any county or district nursing association or other similar organisation, being an association or organisation—

- (a) established and existing wholly or mainly for the purpose of providing patients with the services of a nurse to visit them in their homes without herself taking up residence there; or
- (b) mainly or substantially supported by voluntary subscriptions and providing patients with the services of a nurse whether or not the nurse takes up residence in the patient's house. [641]

3. Short title and citation.—This Act may be cited as the Nurses Act, 1945, and the Nurses Acts, 1919 and 1943, and section one of this Act may be cited together as the Nurses Acts, 1919 to 1945, and the Nurses (Scotland) Acts, 1919 and 1943, and section two of this Act may be cited together as the Nurses (Scotland) Acts, 1919 to 1945. [642]

ORDERS, CIRCULARS AND MEMORANDA

THE NURSES ACT, 1943 (COMMENCEMENT) ORDER, 1945

S. R. & O., 1945, No. 637

May 31, 1945

104236.

The Minister of Health, in exercise of the powers conferred on him by the Nurses Act, 1943 (in this order referred to as "the Act"), hereby orders as follows :—

1. This order may be cited as the Nurses Act, 1943 (Commencement) Order, 1945. [643]

2. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament. [644]

3. The date from which, under subsection (1) of section 6 of the Act, a person who, save as therein provided, takes or uses the name or title of nurse shall be liable to penalties shall be the fifteenth day of October, 1945. [645]

4.—(1) The provisions of Part II of the Act specified in the schedule to this order (which impose penalties on persons who conduct agencies for the supply of nurses otherwise than in accordance with the Act, or without a licence under the Act, and deal with other matters related thereto) shall come into force on the fifteenth day of October, 1945.

(2) The remaining provisions of the said Part (which relate to applications for licences under the Act and matters connected therewith) shall come into force on the fifteenth day of June, 1945. [646]

SCHEDULE

Provisions of Part II of the Act to come into force on 15th October, 1945.

Section 7.

The first paragraph of subsection (1) of section 8.

Subsections (1) and (3) of section 10.

Section 12. [647]

* * * *

THE NURSES REGULATIONS, 1945

S. R. & O., 1945, No. 638

May 31, 1945

104237.

The Minister of Health, in exercise of the powers conferred on him by proviso (b) to subsection (1) of section 6 of the Nurses Act, 1943, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the Nurses Regulations, 1945, and shall come into operation on the fifteenth day of October, 1945.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [648]

2.—(1) Subject to the provisions of these regulations, a person who is not a registered nurse or an enrolled assistant nurse may—

- (a) if the person, being under the age of twenty-one years, has passed the final examination for admission to the general part of the register but cannot because of her age be admitted to the register, use the name or title of “trained nurse” ;
- (b) if the person, being under the said age, has passed the final examination for admission to some other part of the register but cannot because of his or her age be admitted to that part, use in relation to himself or herself any expression containing the words “trained nurse” which sufficiently indicates to which part he or she is otherwise qualified for admission ;
- (c) if the person is for the time being on the general part of the list kept under section 18 of the Nurses Act, 1943, use the name or title of “trained nurse” ;
- (d) if the person is for the time being on some other part of the said list, use in relation to himself or herself any expression containing the words “trained nurse” which sufficiently indicates that he or she is on that part ;
- (e) if she—
 - (i) is certified under the Midwives Acts, 1902 to 1936, or
 - (ii) is, by virtue of an order made under Defence Regulations, for the time being deemed, for the purposes of subsection (1) of section 1 of the Midwives Act, 1936, to be a certified midwife, or
 - (iii) is a woman who, before the first day of January, 1937, was certified by the authorities of a hospital or other institution, to which the Minister has by order applied proviso (c) to subsection (1) of section 6 of that Act, to have been trained in obstetric nursing,

use the name or title of "maternity nurse":

Provided that a woman may not use that name or title by virtue of sub-paragraph (e) (iii) of this paragraph in an area to which the said subsection (1) has been applied, unless she has given to the authority of the area the notice required by the said proviso (c);

- (f) if the person is undergoing training for admission to the register, use the name or title of "student nurse";
- (g) if the person is undergoing training for admission to the roll, use the name or title of "pupil assistant nurse";
- (h) if the person—
 - (i) is for the time being employed in nursing persons suffering from mental disabilities in an institution within the meaning of the Mental Treatment Act, 1930, or in an asylum for criminal lunatics, or in an institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913, or in a workhouse within the meaning of the Lunacy Act, 1890, or a hospital approved for the purpose of section 19 of the Mental Treatment Act, 1930, or
 - (ii) holds the certificate of proficiency in mental nursing or the certificate of proficiency in the nursing of mental defectives granted by the Royal Medico-Psychological Association, or is in training for either of those certificates,
 use in relation to himself or herself any expression containing the word "nurse" which sufficiently indicates that he or she is a nurse, or, as the case may be, in training to become a nurse, only of patients suffering from mental disabilities;
- (j) if the person holds the tuberculosis nursing certificate granted by the Tuberculosis Association, or is in training for that certificate, use in relation to himself or herself any expression containing the word "nurse" which sufficiently indicates that he or she is a nurse, or, as the case may be, in training to become a nurse, of tuberculous patients only;
- (k) if the person holds the orthopaedic nursing certificate granted by the Central Council for the Care of Cripples or the Joint Examination Board of the British Orthopaedic Association and the said Central Council, or is in training for that certificate, use in relation to himself or herself any expression containing the word "nurse" which sufficiently indicates that he or she is a nurse, or, as the case may be, in training to become a nurse, only of persons suffering from some orthopaedic disability;
- (l) if the person—
 - (i) has completed training in nursing in a country not being part of His Majesty's dominions, or in a part of those dominions with which there are for the time being no arrangements for the reciprocal registration of nurses, and
 - (ii) is for the time being on a list kept by the Minister of Health of persons who have completed such training,
 use in relation to himself or herself any expression containing the word "nurse" which sufficiently indicates the country, or, as the case may be, the part of His Majesty's dominions, in which his or her training was received;
- (m) if the person is recognised by the body known as the Church of Christ Scientist, as being a member of that body and as qualified for employment by members of that body as a Christian Science nurse, use the name or title of "Christian Science nurse";

(n) if, being a person who is serving in His Majesty's military or air forces (otherwise than as a member of the army reserve or the air force reserve not for the time being called out on permanent service or as a member of the territorial army or auxiliary air force not for the time being embodied), he is qualified therein as a trained nurse, use the name or title of "trained nurse";

(o) if, being a person—

(i) who has at any time been entitled under the preceding sub-paragraph to use the name or title of "trained nurse", or would at any time have been so entitled if these regulations had then been in force, or

(ii) who has, while serving in His Majesty's naval forces, passed for leading sick berth attendant,

he is no longer serving in His Majesty's forces (otherwise than as aforesaid or as a member of a naval reserve force not for the time being called out for service or called into actual service), use the name or title of "service-trained male nurse";

(p) if, being a person to whom none of the preceding sub-paragraphs of this paragraph applies, he or she is a person to whom any provision of regulations made under proviso (b) to subsection (1) of section 6 of the Nurses (Scotland) Act, 1943, applies, use any name or title, or use in relation to himself or herself any expression containing the word "nurse", which he or she would be authorised to use if that provision extended to England and Wales.

(2) Nothing in these regulations shall entitle a person who is not a registered nurse or an enrolled assistant nurse to use in relation to himself or herself any expression which contains the word "registered" or the word "enrolled". [649]

* * * *

THE NURSES AGENCIES REGULATIONS, 1945

S. R. & O., 1945, No. 639

May 31, 1945

104238

The Minister of Health, in exercise of the powers conferred on him by Part II of the Nurses Act, 1943, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1.—(1) These regulations may be cited as the Nurses Agencies Regulations, 1945.

(2) These regulations, except regulations 3, 5 and 6, and the second schedule, shall come into operation on the fifteenth day of June, 1945, and the said regulations 3, 5 and 6 and the said second schedule shall come into operation on the fifteenth day of October, 1945. [650]

2.—(1) In these regulations:—

“the Act” means the Nurses Act, 1943, as amended by the Nurses Act, 1945;

“the Minister” means the Minister of Health.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [651]

3. A person carrying on an agency for the supply of nurses may, in carrying on the agency, supply persons of the following classes :—

- (a) persons on the list kept under section 18 of the Act ;
- (b) persons who hold the certificate of proficiency in mental nursing or the certificate of proficiency in the nursing of mental defectives granted by the Royal Medico-Psychological Association ;
- (c) persons who hold the tuberculosis nursing certificate granted by the Tuberculosis Association ;
- (d) persons who hold the orthopaedic nursing certificate granted by the Central Council for the Care of Cripples or the Joint Examination Board of the British Orthopaedic Association and the said Central Council ;
- (e) persons who are entitled, under the Nurses Regulations, 1945, to use the name or title of " service-trained male nurse " ;
- (f) persons, being persons to whom none of the preceding paragraphs of this regulation applies, of any class prescribed for the purpose of paragraph (d) of subsection (1) of section 7 of the Nurses (Scotland) Act, 1943. [652]

4.—(1) An application for a licence to carry on an agency for the supply of nurses on any premises in the area of a licensing authority shall be made in writing to the licensing authority in the form set out in the first schedule to these regulations or in a form substantially to the like effect approved for the time being by the Minister, and shall be accompanied by the fee payable in accordance with these regulations.

(2) An application for a licence in respect of an agency by the holder of a licence in respect of that agency shall be made not less than four weeks before the date on which the current licence is due to expire.

(3) An applicant for a licence shall furnish to the licensing authority such further information as the authority may reasonably require with respect to him or to the agency carried on or proposed to be carried on by him.

(4) The fee payable upon making an application for a licence shall be two guineas in the case of a first application to the licensing authority for a licence and one guinea in the case of a subsequent application by the same person in respect of the same agency :

Provided that where an application is made by reason only that it is proposed to carry on an agency in respect of which a licence is held on different premises in the area of the same licensing authority the fee shall be two shillings and sixpence. [653]

5.—(1) A statement in writing for the purposes of subsection (2) of section 7 of the Act shall be in the form set out in the second schedule to these regulations or in a form substantially to the like effect approved for the time being by the Minister.

(2) A statement for the said purposes shall be delivered in person by the nurse or other person supplied :

Provided that, if it is not reasonably practicable in the circumstances of a particular case for the nurse or other person supplied so to deliver the statement, the statement may be sent by post or other suitable means and in such a case shall—

- (a) if sent by other means than post, be delivered, and
- (b) if sent by post be posted at such time as will, in the ordinary course of post, enable it to be delivered,

not later than the end of the day next after that on which the nurse or other person is to report for duty. [654]

6. A person carrying on an agency for the supply of nurses shall keep records showing :—

- (a) the full name and address and the age of every nurse or other person who is or is to be supplied by the agency ;
- (b) in the case of a registered nurse and of a nurse on the list kept under section 18 of the Act :—
 - (i) which part or parts of the register or of the said list the nurse is on ;
 - (ii) whether she is also a midwife or holds the first certificate of the Central Midwives Board ; and
 - (iii) what additional nursing certificates (if any) are held by the nurse ;
- (c) in the case of persons supplied or to be supplied other than registered nurses and nurses on the said list, the nursing or midwifery qualifications possessed by the person ;
- (d) the name and professional qualifications of the registered nurse or the registered medical practitioner by or under whose supervision the selection of the person to be supplied for a particular case is made ;
- (e) the names and addresses of all persons to whom nurses or other persons are supplied, the name of the nurse or other person supplied in each case, and the dates between which the nurse or other person was so supplied ;
- (f) in a case where a nurse or other person is required for a private patient, the nature of the illness from which the patient is stated to be suffering ;
- (g) the weekly or monthly fee, charge or other consideration required in each case from the person to whom a nurse or other person is supplied, and the total fee, charge or other consideration required in each case ;
- (h) the total commission or fee and expenses, if any, charged in each case to the nurse or other person supplied, and (except in a case to which the next succeeding sub-paragraph applies) the net amount retained by, or, as the case may be, paid by the agency to, the nurse or other person supplied in each case ;
- (i) where nurses or other persons are directly employed by the agency, the annual salary and emoluments payable to, and conditions of employment of, each such nurse or other person ;
- (j) the terms of the standard agreement between the agency and nurses or other persons supplied or to be supplied by the agency, and particulars of any variation of those terms in any particular case ;
- (k) whether the nurse or other person is a member of any superannuation scheme, and if so of what scheme ;
- (l) particulars of the contents of all statements given for the purposes of subsection (2) of section 7 of the Act ;
- (m) particulars of any complaints made against the agency and of the action taken thereon. [655]

FIRST SCHEDULE

FORM OF APPLICATION FOR LICENCE

I (or We) hereby apply to the Council in pursuance of section 8 of the Nurses Act, 1943, for a licence to carry on an agency for the supply of nurses (as defined in subsection (1) of section 13 of that Act), and furnish below particulars in regard to the agency :—

- | | |
|--|-----|
| 1.—(a) Full name of the applicant(s) (Surname(s) in block capitals). | (a) |
| (b) Private address of the applicant(s). | (b) |
| (c) (In the case of a woman) Whether married or single. | (c) |
| (d) Age of applicant(s). | (d) |
| (e) Professional status (if any) of applicant(s). | (e) |
| (f) Nationality of applicant(s). | (f) |
| 2. If the application is made by a company, society, association or other body, | |
| (a) registered or principal office of company, society, association or body, | (a) |
| (b) full name and address of each director, trustee or other person concerned in the management of the company, society, association or other body. | (b) |
| 3. Full name and private address of every person (if any) other than the applicant(s) who is, or is to be, responsible for the management of the agency. | |
| 4.—(a) Name, style or title under which the agency is carried on. | (a) |
| (b) Address of agency. | (b) |
| (c) Brief description of premises including, if any nurses or midwives are accommodated on the premises or on associated premises, particulars of the accommodation, provided for them, whether for sleeping or for recreational purposes or for taking meals. | (c) |
| 5. Name, address and qualifications of registered nurse (including particulars of the part or parts of the register which she is on), or name and address of registered medical practitioner who supervises selection of the person to be supplied in each case. | |
| 6. Approximate number of persons available, or proposed to be available, for supply by the agency in each of the following categories :— | |
| (a) nurses on the part of the register containing the names of general trained female nurses. | (a) |
| (b) nurses on the part of the register containing the names of general trained male nurses. | (b) |
| (c) nurses on each other part of the register (female), excluding any included in (a). | (c) |
| (d) nurses on each other part of the register (male), excluding any included in (b). | (d) |
| (e) enrolled assistant nurses (female). | (e) |
| (f) enrolled assistant nurses (male). | (f) |
| (g) certified midwives. | (g) |
| (h) other persons in each of the classes specified in regulation 3 of these regulations (female). | (h) |
| (i) other persons in each of those classes (male). | (i) |

7. Number, if any, of persons referred to in each of the categories in paragraph 6 who will be resident on the premises or on associated premises.
8. Fees, charges and any other consideration charged, or proposed to be charged, for supply of nurses in each of the categories referred to in paragraph 6 to—
 - (a) private patients ;
 - (b) hospitals ;
 - (c) nursing homes ;
 - (d) other institutions (e.g. poor law institutions, school sanatoria).
9. Fees or commission charged to, and the other terms of engagement, if any, of each of the categories referred to in paragraph 6.
10. Name and address of any other agency for the supply of nurses in which the applicant, or applicant company, society, association or body, or any director or trustee thereof, is interested, and the nature and extent of the interest therein.
11. Name and address of any agency for the supply of nurses with which applicant, or any director or other person directly or indirectly responsible for the management of the applicant company, society, association or body, has previously been connected.
12. Full particulars of any previous application by the applicant, or by a person whose name is given in paragraph 2, for a licence which has been refused by any licensing authority.

(a)
(b)
(c)
(d)

I (or We) declare that the above particulars are true in every respect.

Date 19 .

Signature or Signatures. [656]

SECOND SCHEDULE

FORM OF STATEMENT IN WRITING FOR THE PURPOSES OF SECTION 7 (2) OF THE ACT

Name of agency.....
 Address of agency.....
 Licensing authority.....
 To..... (Name)..... (Address)
 This is to inform you that (Miss) (Mrs.) (Mr.).....
 (name of person supplied), who has been instructed to report to you on.....
to act as a nurse */midwife *, is :
 (a) a state registered nurse on the following part(s) of the register *.....
 (b) an enrolled assistant nurse *
 (c) a state certified midwife *
 (d) on the following part(s) of the list kept under section 18 of the Act *.....
 (e) qualified as a.....*

.....(Signature)
(Qualifications
 and position held)
(Date) [657]

* Delete as appropriate. If a person supplied falls in category (a) or (d) the part or parts of the register or list which he or she is on must be stated. If the person falls in category (e) his or her nursing or midwifery qualifications must be indicated.

* * *

Circular 5145

*To the Authorities of Class 1A hospitals in the
Emergency Hospital Scheme*

To the Authorities of Tuberculosis Sanatoria.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.

15th January, 1945.

SIR,

Educational Provision for Civilian Patients in Hospitals and Sanatoria

1. I am directed by the Minister of Health to say that he has had under consideration, in consultation with the Minister of Education, the question of the provision which can be made to enable civilian patients, likely to be detained in hospitals and sanatoria for long periods, to pursue educational courses if they so desire and if suitable arrangements can be made. There is ample evidence that, in addition to its educational value, a course of study or craft work, whether general or vocational, in which the patient is interested, can contribute materially to accelerating recovery and removing that sense of frustration which any prolonged enforced inactivity may entail. The Minister of Education, has, therefore, asked Local Education Authorities for Higher Education to do their best to provide such facilities where they are needed. [658]

2. Where a hospital or sanatorium authority is satisfied, on the advice of the medical officer in charge of the case, that a patient should be encouraged to pursue a course of study, having regard to the likely effect on his or her condition, the Minister would be glad if the patient could be put in touch with the Chief Education Officer of the area. In applying for a course in a particular subject a patient should be asked to state clearly how much of that subject he knows already and what particular examination or purpose he has in mind in seeking instruction, in order that the Chief Education Officer can decide whether a beginner's course or a more advanced course is required. At the same time, the hospital authority should advise the Chief Education Officer as to the probable length of the patient's stay in the hospital or sanatorium. [659]

3. A correspondence course will often be the only kind of course which is practicable in the circumstances, but sometimes the tutor may wish to visit, rather than to correspond with, the patient for the purpose of correcting exercises. The Minister does not doubt that the hospital or sanatorium authority will willingly grant the necessary facilities. Where a patient is not in a position, or cannot arrange, to provide the requisite text books for the course, or to borrow them from a library, the Local Education Authority may be able to help. [660]

4. While, in the circumstances, it would generally be inappropriate to charge the patient more than a small fee for a correspondence course, it is thought that, unless some fee is charged, there may well sometimes be a risk of courses being started too readily and not being continued owing to a patient's waning interest. The Minister of Education considers, therefore, that a fee, ranging from 5s. for shorter courses to 10s. for the longer, would generally be appropriate. Local Education Authorities are, however, at liberty to charge a smaller fee, or to waive the fee altogether, if in any case the circumstances appear to them to justify exceptional treatment. [661]

5. Serving members of His Majesty's Forces detained in hospital are the responsibility of the Service Departments as regards the provision of correspondence courses, and are covered by the War Office Correspondence Course Scheme until discharged from the Forces on medical grounds. If retained in hospital after invaliding, they will then be eligible as civilians to take such courses as may be made available by the Local Education Authority under this Circular. Such invalided patients will, however, be permitted to complete any particular correspondence course for which they were enrolled under the War Office Scheme at any time prior to discharge from the Service. [662]

6. Whilst it appears probable from such information as is available that individual needs would generally best be met by correspondence courses, it may sometimes be possible for Local Education Authorities to use other methods of providing further education for hospital and sanatorium patients. Thus arrangements might be made for a number of patients suffering from injuries who had reached the ambulant stage to attend a practical course at a nearby technical institute. Similar arrangements could sometimes be made for attendance for craft instruction at Art Schools. The possibility of providing for small groups of patients by means of discussion circles and informal lectures has also been suggested. [663]

7. The financial arrangements for providing the facilities suggested in the foregoing paragraphs, and the question whether a fee should be charged for facilities of the kind referred to in paragraph 6, are matters for the Local Education Authority, and no part of the cost will fall on the hospital authority. [664]

8. There may, however, be patients for whom some special training, which Local Education Authorities can provide, or assist in providing, is required on therapeutic grounds as part of their treatment. In such cases the cost of any provision made would fall to be met in the first instance by the hospital or sanatorium authority, and in the case of hospitals in the Emergency Hospital Scheme, such expenditure in respect of E.M.S. patients may be included in form A.G.136 or 138 for reimbursement. [665]

9. A few long-stay patients in hospitals and sanatoria, including members of the Merchant Navy and those who have been invalided from the Fighting Services, may wish to continue university studies interrupted by the war, or to begin such studies in preparation for a future career. Local Education Authorities are not in a position to assist students in this group. The Minister considers it important that the needs of these students should, where practicable, be met; and where the hospital or sanatorium is near a university, he suggests that the student might be put in touch, through the almoner or other appropriate officer, with the university authorities in order that he may be given an opportunity of taking advantage of the special facilities which the university may be able to provide. It may be possible for the almoner in some cases to arrange for the hospital or sanatorium to be visited by a representative of the university for the purpose of discussing a course of studies with a particular patient who requires help or advice.

A patient may occasionally seek information as to a professional course of instruction which is outside the ordinary scope of provision of both Local Education Authorities and Universities. The Ministry of Education, Belgrave Square, London, S.W.1, to whom all communications on this subject should be sent, may be consulted in such cases. [666]

10. In the case of voluntary hospitals two additional copies of this circular are enclosed for the Almoner's Department. In the case of Local Authorities an additional copy is enclosed for the information of the Chief Financial Officer. Copies of the circular have also been sent, under separate cover, to the County Medical Officer or Medical Officer of Health for information,

together with further copies for distribution to the Medical Superintendent and the Almoner (or similar officer) of each hospital concerned. [667]

I am, Sir, etc.

* * * * *

The Clerk of the Council
The Town Clerk
The Clerk of the Joint Board,
Visiting Committee
The Secretary or House Governor.

Circular 97/45

To all

*Local Authorities, including Mental
Hospital and Mental Deficiency
Authorities, Joint Hospital and
Sanatoria Boards and Com-
mittees,
Voluntary Hospitals and Sanatoria
including Registered Hospitals
(mental patients),
County and District Nursing Associa-
tions (Superintendents).*

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
9th June, 1945.

SIR,

NURSES ACTS, 1943 and 1945

1. I am directed by the Minister of Health to refer to Circular 2821 dated the 27th May, 1943, about the Nurses Act, 1943, to outline the developments since the issue of that Circular, and to make some further observations on the provisions of the Act. [668]

2. In the course of considering when Part II of the Act should be brought into operation, the Minister observed that the definition of "agency for the supply of nurses" was wide enough to include county and district nursing associations and other similar organisations established and existing wholly or mainly for the purpose of providing a nurse to visit patients in their homes without herself taking up residence there. The Nurses Act, 1945, however, secures the exclusion of such associations from the provisions of Part II of the Nurses Act, 1943. [669]

3. As the Authority are no doubt aware, an Assistant Nurses Committee of the General Nursing Council for England and Wales has been appointed, and rules relating to the enrolment of existing and intermediate assistant nurses have been made by the Council and approved by the Minister. [670]

4. Although rules relating to the future training of assistant nurses have not yet been approved by the Minister, they have recently been submitted for his approval and the Minister has come to the conclusion that the time is now opportune to arrange for the bringing into operation of those provisions of the Nurses Act, 1943, which restrict the use of the title "nurse" and of the provisions contained in Part II of the Act relating to agencies for the supply of nurses. He recognises that reasonable notice of this action must be given in order that all concerned may be able to take the necessary preparatory steps. He has accordingly, in pursuance of sub-section (1) of section 6 and sub-section (4) of section 13 of the Act, made an Order bringing the provisions referred to above into effect generally on the 15th October, 1945. [671]

5. A copy of the Order is enclosed. It will be observed that, so far as it relates to Part II of the Nurses Act, 1943, the Minister has decided in the interests of uniformity not to exercise his power under sub-section (4) of

section 13 of the Act, of appointing different dates for the different purposes and provisions of this Part of the Act or for different areas, save to the extent of bringing the provisions relating to applications for licences and certain related provisions into operation from an earlier date (15th June, 1945). Accordingly, any provisions in local Acts relating to employment agencies will, from the 15th October, 1945, no longer apply to agencies for the supply of nurses and will be superseded, as regards such agencies, by the provisions of the Nurses Act, 1943. [672]

6. Copies are also enclosed of Regulations made by the Minister under proviso (b) to sub-section (1) of section 6 and under Part II of the Nurses Act, 1943. These Regulations will also come into operation on the 15th October, 1945, except that the parts of the latter Regulations dealing with applications for licences will come into effect on 15th June, 1945. [673]

Nurses Regulations, 1945.

7. Under sub-section (1) of section 6 of the Nurses Act, 1943, from the date directed by the Minister (i.e. the 15th October, 1945, as directed by the Order referred to in paragraph 3 above) persons other than registered nurses and enrolled assistant nurses who use the title "nurse" either alone or in combination with other words or letters will be guilty of an offence. Proviso (a) to the sub-section, however, permits children's nurses (as defined in section 20 of the Act) to use the title "nurse" except in circumstances or in a context which suggest that they are something other than children's nurses. Proviso (b) enables the Minister to make certain Regulations, and the Nurses Regulations, 1945, have been made in pursuance of this power. The effect of these Regulations is to permit certain classes of persons, notwithstanding the provisions of the sub-section, for the time being to use the title "nurse" in conjunction with other words. The following classes of persons are covered by the Regulations :—

(a) and (b) persons under the age of 21 who have passed the final examination for admission to the State Register but cannot because of their age be admitted to the State Register ;

(c) and (d) persons on the list kept under Section 18 of the Act ;

(e) midwives and certain persons to whom sub-section (1) of section 6 of the Midwives Act, 1936, does not apply ;

(f) persons undergoing training for admission to the State Register ;

(g) persons undergoing training for admission to the Assistant Nurses Roll ;

(h) persons employed in nursing patients suffering from mental disabilities in certain institutions, and persons holding or in training for certificates granted by the Royal Medico-Psychological Association ;

(j) persons holding or in training for the tuberculosis nursing certificate of the Tuberculosis Association ;

(k) persons holding or in training for the orthopaedic nursing certificate of the Central Council for the Care of Cripples or the Joint Examination Board of the British Orthopaedic Association and the Central Council ;

(l) persons who have completed training in countries with which there are no arrangements for the reciprocal registration of nurses and whose names are on a list kept by the Minister of Health ;

(m) Christian Science nurses ;

(n) and (o) persons who have undergone specified nursing training in the Navy, Army or Air Force ;

(p) persons (not included above) specified in corresponding regulations made under the Nurses (Scotland) Act, 1943.

The Regulations specify in some cases the expressions, including the word "nurse", which may be used by nurses in each of the enumerated classes.

It will be observed that in other cases the Minister has not thought it desirable to prescribe the precise title to be used by the classes of person covered by the Regulations, but has decided to allow a limited measure of discretion as to the titles which may be used. Where a specific title is prescribed, it will be appreciated that that title only may be used by the class of person concerned. [674]

8. As indicated above, the provision in the Regulations relating to nurses who have completed training in a country with which there are no arrangements for the reciprocal registration of nurses provides for the admission of such nurses to a list kept by the Minister and permits nurses so admitted to use certain expressions containing the title "nurse". Authorities will no doubt advise nurses whom they consider suitable to apply for admission to this list, but the Minister desires to emphasise that only such nurses as have successfully completed a course of training in nursing which the Minister regards as satisfactory for the purposes of this provision will be eligible for admission to the list. [675]

9. Proviso (c) to sub-section (1) of section 6 of the Nurses Act, 1943, makes it clear that persons shall not be guilty of offences under the Act simply because they are addressed as "nurse" without raising objection; and proviso (d) requires the Minister's consent to any proceedings for an offence under the sub-section. [676]

Nurses Agencies Regulations, 1945, Part II of the Nurses Act, 1943, and the Nurses Act, 1945.

10. Paragraphs 8 to 12 of Circular 2821 outlined the more important provisions of Part II of the Nurses Act, 1943. Sub-section (2) of section 13 of the Act empowers the Minister to make Regulations for prescribing anything which under this Part of the Act has to be prescribed, and the Nurses Agencies Regulations are made in pursuance of this power. Regulation 3 (which comes into effect on 15th October, 1945) prescribes the classes of persons who may be supplied by a person carrying on an agency for the supply of nurses (of which the definition in section 13 of the Act is amended by the Nurses Act, 1945), in addition to those (registered nurses, enrolled assistant nurses, and certified midwives) specifically mentioned in paragraphs (a), (b) and (c) of sub-section (1) of section 7 of the Act. These classes (all of which are included in the classes covered by the Nurses Regulations) are as follows :—

- (a) persons on the list kept under section 18 of the Nurses Act, 1943 ;
- (b) persons who hold certificates granted by the Royal Medico-Psychological Association ;
- (c) persons who hold the tuberculosis nursing certificate granted by the Tuberculosis Association ;
- (d) persons who hold the orthopaedic nursing certificate granted by the Central Council for the Care of Cripples or the Joint Examination Board of the British Orthopaedic Association and the Central Council ;
- (e) persons entitled under the Nurses Regulations to use the name or title of "service-trained male nurse" ;
- (f) persons (not included above) of a class specified in regulations made under the corresponding provision of the Nurses (Scotland) Act, 1943.

Persons not included in these classes or in those mentioned in section 7 of the Act may from the 15th October, 1945, not be supplied by agencies for the supply of nurses. [677]

11. Regulation 4 deals with the procedure for making application for a licence to carry on an agency for the supply of nurses, and the First Schedule to the Regulations prescribes the form in which applications are to be

made. These provisions come into force on the 15th June, 1945. The prescribed fee is two guineas in the case of a first application and one guinea in the case of an application for renewal, with the proviso that, if an application is made solely because of a transfer of the agency to different premises in the area of the same licensing authority, the fee shall be 2s. 6d. [678]

12. Sub-sections (2) to (6) of section 8 of the Nurses Act, 1943, which come into effect on 15th June, 1945, relate to the procedure for the consideration by licensing authorities of applications for licences. Sub-section (2) provides that, if an application is made in the prescribed form and at the prescribed time, and if the applicant gives the prescribed information and pays the prescribed fee, the licensing authority shall grant the licence. The licence so granted may be subject to such conditions as the authority may think fit for securing the proper conduct of the agency, including conditions as to the fees to be charged by the persons carrying on the agency, whether to the nurses or other persons to be supplied or to the persons to whom they are supplied. It is for each authority to determine what conditions it may wish to impose. Sub-section (3) of section 8 states the grounds on which applications may be refused or licences may be revoked, and sub-section (5) provides that applications for the renewal of a licence shall not be refused and licences shall not be revoked unless the holder has been given an opportunity of being heard. Sub-section (4) deals with the procedure for appeals to the Courts against refusal or revocation of a licence or against conditions attached to a licence. Sub-section (6) provides for an annual meeting of a licensing authority, or of a committee to which the authority have delegated their powers, to consider applications for licences, and lays down that licences shall be valid (unless revoked) until the 31st December in the year following the year in which the licence is granted. The proviso to this sub-section makes it clear that applications for licences may be considered at any time and need not be deferred till the next annual meeting of the authority or of the committee to which they have delegated their powers. [679]

13. A "licensing authority" is defined in sub-section (1) of section 8 of the Nurses Act, 1943. Section 11 of the Act, which comes into effect on the 15th June, 1945, enables a county council, on the application of a county district council, to delegate their functions under the Act to the county district council. Sub-section (2) of section 11 of the Act provides a right of appeal to the Minister where the county district council are aggrieved by the refusal of the county council to delegate functions or by any conditions or restrictions which the county council propose to impose. Sub-sections (4) and (5) of section 11 of the Act relate to the financial arrangements in the event of delegation.

The Minister does not contemplate that there will be any general delegation of their functions under the Act by county councils. [680]

14. Section 9 of the Nurses Act, 1943, which comes into effect on the 15th June, 1945, places upon licensing authorities the duty of enforcing the provisions of Part II of the Act. Sub-section (2) of this section permits duly authorised officers of the authority to enter or inspect premises used in connection with agencies for the supply of nurses. Licensing authorities will no doubt recognise the desirability of utilising wherever possible the services of registered nurses (who are specifically mentioned in the Act) for the purpose of these inspections in connection, as may be considered necessary, with other appropriate officers. Section 10 of the Act, of which sub-sections (2) and (4) to (7) come into effect on 15th June, 1945, and the other sub-sections on the 15th October, 1945, prescribes the penalties for offences. [681]

15. The Minister considers it desirable that he should be informed of all cases where licensing authorities have found it necessary to refuse or to revoke licences. He is of opinion also that all licensing authorities should be made aware of such cases. Accordingly, in pursuance of the powers he

possesses under section 284 of the Local Government Act, 1933, and section 174 of the London Government Act, 1939, he hereby calls upon all licensing authorities to notify him, in all cases where they refuse an application for a licence or revoke a licence, of the names and addresses of the applicants or the holders, as the case may be, and to furnish him with a full statement of the facts on which the refusal or revocation was based. A list of the names and addresses of persons to whom the grant of a licence has been refused, or whose licence has been revoked, will be kept by the Minister and circulated from time to time to all licensing authorities. [682]

16. Regulation 5 of the Nurses Agencies Regulations, 1945, prescribes the time at and the manner in which an agency is required to notify the person to whom the nurse or other person is supplied of the qualifications of the person supplied, and the Second Schedule to the Regulations sets out the form which the notification shall take. It will be observed that the prescribed statement must ordinarily be delivered personally by the nurse or other person supplied but, where this is not reasonably practicable, may be sent by post or other suitable means so as to arrive not later than the end of the day after the nurse or other person is to report for duty. These provisions come into force on the 15th October, 1945. [683]

17. Regulation 6, which also comes into force on the 15th October, 1945, sets out in detail the records which agencies for the supply of nurses must keep. Under sub-section (2) of section 9 of the Act, these records are open for inspection at all reasonable times by the duly authorised officers referred to in paragraph 14. [684]

18. A copy of this Circular is being sent to the Medical Officer of Health. [685]

19. Further copies of this Circular and of the Order (S. R. & O., 1945, No. 637, 1d. (2d.)) and Regulations (S. R. & Os., 1945, Nos. 638, 1d. (2d.) and 639, 2d. (3d.)) can be obtained from His Majesty's Stationery Office at the addresses and at the price indicated on the documents. [686]

I am, Sir, etc.

* * * * *

The Clerk of the Council,
The Town Clerk,
The Clerk of the Joint Board, Mental Hospitals Board
or Visiting Committee,
The Secretary, House Governor or Medical Superintendent,
The Superintendent.

Circular 162/45

To all Authorities of Hospitals (municipal and voluntary) approved by the General Nursing Council for England and Wales as Training Schools for Nurses.
To other Local Authorities owning Hospitals and other Voluntary Hospitals for information.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
17th September, 1945.

SIR,

PRE-NURSING COURSES IN SECONDARY AND TECHNICAL SCHOOLS

1. I am directed by the Minister of Health to draw the attention of hospital authorities to certain matters relating to the establishment of pre-nursing courses, which, as those authorities are aware, is one of the methods adopted for helping to bridge the gap between the ordinary school-leaving age and the normal age of entry into nursing training schools in hospitals and thus tending to improve recruitment to the nursing profession. [687]

2. Such courses, which are designed to lead up to the taking of Part I of the Preliminary State Examination, at present fall into two categories :—

- (a) Full-time pre-nursing courses at certain secondary and technical schools, involving continuation of normal general education, together with tuition in the special subjects anatomy, physiology and hygiene in accordance with the syllabus prescribed by the General Nursing Council, with the addition of elementary physics, chemistry and biology in so far as a knowledge of these subjects is necessary for intelligent study of the prescribed syllabus.
- (b) Part-time evening courses at technical schools. The curriculum of such courses includes the syllabus in anatomy, physiology and hygiene prescribed by the General Nursing Council and elementary physics, chemistry and biology to the extent mentioned in (a) above, and also further instruction in English and Arithmetic. Some time also should be given to the theory and practice of cookery.

In order to qualify students to sit for the examination, it is necessary for the responsible body of the school or college to submit particulars of the proposed course of instruction to the Ministry of Education, who will inform the responsible body whether it is approved by the General Nursing Council. [688]

3. With the encouragement of the Minister of Education, acting in consultation with the Minister of Health, pre-nursing courses have increased in number and the number of students entering hospitals through the medium of these courses has steadily grown. In areas where such courses have not yet been instituted, however, the Ministers suggest that training hospital authorities might approach the Education Officer of the Local Education Authority at an early date and invite him to consider the possibility of establishing a course of one or other of the different types indicated above. [689]

4. In many areas, the Minister understands, arrangements have been made between the authorities of hospitals and the education authorities either for schoolgirls and teachers to visit hospitals and to acquaint themselves generally with the value and interest of nursing as a career and with the conditions under which nurses work, or for the matron of a hospital to visit schools and address schoolgirls on these points. The Minister is convinced that such arrangements may be of very great value in interesting schoolgirls in the nursing profession, and where they have not been made he suggests that the possibility of making such arrangements also should be discussed with the Education Officer. [690]

5. The Minister desires also to refer to the letter which the General Nursing Council have recently sent to the authorities of training hospitals pointing out that student nurses who, prior to entrance to the training school have passed Part I of the Preliminary Examination on completion of a pre-nursing course, should not be required to take again lectures they have already taken, and to say that the Minister endorses the view expressed by the Council. [691]

6. A copy of this circular is being sent to the Medical Officer of Health. [692]

I am, Sir, etc.

* * * * *

The Clerk of the Council.

The Town Clerk.

The Clerk of the Joint Board,

Mental Hospital Board or Visiting Committee.

The Secretary or House Governor.

HOUSING

STATUTES :—	PAGE		PAGE
Housing (Temporary Accommodation) Act, 1945—	215	Circular 149/45 : Bills of Quantities for Housing Work —	230
Building Materials and Housing Act, 1945 —	217	CASES :—	
ORDERS, CIRCULARS AND MEMORANDA :—		<i>Re</i> Brown's Mortgage, Wallasey Corpn. v. A.-G., [1945] 1 All E. R. 397; <i>sub nom.</i> Wallasey Corpn. v. A.-G., 61 T. L. R. 230 —	231
Defence (General) Regulations, 1939, Regulation 68CA —	227	<i>Benabo v. Wood Green Corpn.</i> , [1945] 2 All E. R. 162 —	232
Defence (General) Regulations, 1939, Regulation 68CB —	228	<i>Re</i> London County Council (Riley Street, Chelsea, No. 1) Order, 1938, [1945] 2 All E. R. 484 —	232
Circular 104/45 : Submission of Tenders for the Erection of Houses and Flats —	229		

STATUTES

HOUSING (TEMPORARY ACCOMMODATION)
ACT, 1945

(8 & 9 Geo. 6, c. 39)

PRELIMINARY NOTE

Under the Housing (Temporary Accommodation) Act, 1944, the Minister of Health is empowered to provide and erect temporary houses on sites provided and serviced by local authorities. S. 6 of the Act gives to local authorities temporary powers for obtaining possession of land for the erection of these structures.

The object of the present Act, which received the Royal Assent on June 15, 1945, is to enable the Minister of Health and the Secretary of State for Scotland to authorise local authorities to use certain open spaces for the erection of temporary houses. Such authority will only be given on the application of a local authority itself; and application must be made and authority given within two years of the passing of the Act—i.e., before June 15, 1947. The Minister of Town and Country Planning must also certify that he is satisfied that the use of any such land is expedient in the public interest in consequence of the emergency that was the occasion of the passing of the Act of 1944 (*supra*)—i.e., the acute housing shortage caused principally by air-raids—and in the particular circumstances in which the authorisation is sought. Any authorisation so given is to be for a period not longer than ten years; and when such authorisation ceases to be in force the local authority is to take all steps requisite for securing the reinstatement of the land to its original condition, or to such altered state, suited to the use of the land as open space, as the Minister may approve.

The Act applies only to open spaces vested in, or at the disposal of, local authorities, and Royal Parks will not be affected by it. [693]

An Act to authorise the use of open space during a limited period for temporary housing accommodation, and for purposes connected therewith.

[15th June, 1945.]

1. Power to authorise use of open space during a limited period for temporary housing accommodation.—(1) Subject to the provisions of this section, the Minister of Health (in this Act referred to as "the Minister") may by order authorise a local authority for the purposes of Part V of the Housing Act, 1936, to use for the purposes of the Housing (Temporary Accommodation) Act, 1944, land vested in them, or at their disposal, at the passing of this Act which is, or forms part of, an open space:

Provided that this subsection shall have effect during the period of two years beginning with the passing of this Act and no longer. [694]

(2) Such an authorisation shall not be given as to any land unless the Minister of Town and Country Planning certifies that he is satisfied that the use as aforesaid of that particular land is expedient in the public interest in consequence of the emergency that was the occasion of the passing of the said Act of 1944 and in the particular circumstances in which the authorisation is sought. [695]

(3) Any such authorisation shall be for a period of not longer than ten years to be specified in the order, and shall be revocable during that period by order of the Minister. [696]

(4) Whilst such an authorisation is in force, the land may be used for the erection thereon of structures made available under section one of the said Act of 1944, for the execution of all works required for that purpose, and for the provision of housing accommodation in such structures erected thereon, notwithstanding—

(a) anything in any enactment relating to open spaces, including any enactment whether public general or local or private, by which any of the land is specially regulated ; or

(b) that the use of the land as aforesaid, or the execution of any such works as aforesaid, involves interference with any easement, liberty, privilege, right or advantage annexed to other land and adversely affecting that land, or breach of any restriction as to the use of the land arising by virtue of any contract ;

and any right of way over the land, or other right relating thereto enjoyed by any person, whether by virtue of an interest in the land or otherwise, shall, in so far as the exercise thereof would interfere with the use of the land as aforesaid or the execution of any such works as aforesaid, not be exercisable. [697]

(5) If any other land is injuriously affected by the execution of works under the last preceding subsection on land as to which such an authorisation is given, the local authority shall be subject to the like liability to pay compensation under section sixty-eight of the Lands Clauses Consolidation Act, 1845, in respect of damage sustained by reason thereof as they would have been under if the works had been executed under an enactment incorporating that section on land acquired by them under that enactment. [698]

(6) When such an authorisation ceases to be in force, the local authority shall forthwith take all steps requisite for securing the reinstatement of the land in the state in which it was before the authorisation was given, or in such altered state suited to the use of the land as open space as the Minister may approve ; and accordingly subsection (1) of section two of the said Act of 1944, so far as it relates to the Minister's causing structures to be removed at the request of the local authority at any time after the expiration of ten years from the passing of that Act, shall have effect as to structures on land as to which such an authorisation is given with the substitution of a reference to the authorisation's ceasing to be in force for the reference to the expiration of the said ten years. [699]

(7) The reference in section one of the said Act of 1944, and references in the Housing Act, 1936, to land appropriated by a local authority for the purposes of Part V of the Housing Act, 1936, shall be construed as including references to land as to which an authorisation given to the local authority under this section is in force :

Provided that the local authority shall not be entitled by virtue of this subsection to exercise as to any such land as aforesaid any of the powers of sale, leasing and exchange conferred by section seventy-nine of the Housing Act, 1936, as to land appropriated for the purposes of the said Part V. [700]

(8) In this section the expression "open space" has the same meaning as in the Housing Act, 1936, except that it does not include a disused burial ground. [701]

Housing Act, 1936, Part V.—Part V of the Act deals with the provision of housing accommodation for the working classes. Local authorities for the purposes of the Act generally are defined by s. 1 of the Act; local authorities for Part V as respects the administrative county of London (other than the City of London) by s. 103 thereof.

Housing (Temporary Accommodation) Act, 1944.—The purpose of the Act is to facilitate the provision of temporary houses of "prefabricated" types, as described in the Memorandum on Temporary Accommodation issued for the guidance of local authorities by the Ministries of Health and Works (S.O. Code No. 32-365).

"Open space."—S. 143 (4) of the Housing Act, 1936, defines "open space" as "any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground."

2. Application to Scotland.—The provisions of this Act shall in their application to Scotland have effect subject to the following modifications:—

- (a) for references to the Minister of Health there shall be substituted references to the Secretary of State;
- (b) in subsection (2) of section one for the words "the Minister of Town and Country Planning certifies that he is satisfied" there shall be substituted the words "the Secretary of State is satisfied";
- (c) for references to the Housing Act, 1936, there shall be substituted references to the Housing (Scotland) Acts, 1925 to 1938, and for references to Part V of the Housing Act, 1936, there shall be substituted references to Part III of the Housing (Scotland) Act, 1925;
- (d) in subsection (4) of section one for the word "easement" there shall be substituted the word "servitude", and for the words "any contract" there shall be substituted the words "any deed or contract";
- (e) for any reference to section sixty-eight of the Lands Clauses Consolidation Act, 1845, there shall be substituted a reference to section six of the Railways Clauses Consolidation (Scotland) Act, 1845; and
- (f) for any reference to the powers of sale, leasing and exchange conferred by section seventy-nine of the Housing Act, 1936, there shall be substituted a reference to the powers of sale, feuing, leasing, or excambion conferred by section forty-five of the Housing (Scotland) Act, 1925. [702]

3. Short title.—This Act may be cited as the Housing (Temporary Accommodation) Act, 1945. [703]

BUILDING MATERIALS AND HOUSING ACT, 1945

(9 & 10 Geo. 6, c. 20)

PRELIMINARY NOTE

This Act, the provisions of which are, in terms, mainly financial, enables the Government's housing programme to be carried one stage farther.

With a view to stimulating the production of building materials in large quantities and at reasonable prices, the Government are entering into business on an extensive scale as providers and distributors of such materials. It is hoped in this way to cover all possible sources of production and to ensure a rapid distribution of materials. Accordingly, the Minister of Works, who is the Minister with the overall responsibility for assessing requirements in materials for all building programmes, is authorised to make bulk purchases of building materials (including prefabricated houses), to arrange the manufacture of materials to supplement normal supplies, and to set up a special distributing organisation to supplement

the existing channels of distribution. Additionally, his functions include assistance to local authorities in carrying out their housing responsibilities under Part V of the Housing Act, 1936. Considerable working capital will be needed for these large-scale commercial operations and ss. 1-4 therefore prescribe the financial arrangements necessary for enabling the Minister of Works to carry out the above tasks. S. 1 provides for advances to be made to the Minister of Works by the Treasury up to a limit of £100,000,000. No advances are to be made after September 30, 1950, and interest is to be paid on amounts for the time being outstanding. S. 2 establishes a Building Materials and Housing Fund under the control and management of the Minister of Works. Into this Fund will be paid the advances made under s. 1, and out of it will be paid the expenses of the Minister in carrying out the aforementioned functions, together with payments of principal and interest in respect of advances. Into the Fund will also be paid the proceeds of all sales of materials or houses and any payments received from local authorities for assistance rendered to them in the erection of houses. Generally speaking, materials will not be sold below cost price, and it is intended that, so far as possible, the Fund will show neither a profit nor a loss. The total value of the transactions carried out by the Minister of Works will, of course, exceed the sum of £100,000,000, which, in effect, represents the maximum amount of an overdraft which the Government will guarantee for these operations. Accounts of the Fund are to be prepared each year and submitted to the Comptroller and Auditor-General who will report on them to Parliament. S. 3 makes provision for a special subsidy towards the cost of certain factory-produced or prefabricated houses. These houses may in some cases cost more than the traditional type of house, but their purchase may, nevertheless, for various reasons, be justified. Accordingly, the Minister of Works is authorised, with the approval of the Minister of Health, to sell such prefabricated houses to local authorities at a price approximating to that of the traditional type house, and the Minister of Health is authorised to pay into the Fund sufficient to cover the loss on any such transactions, in order that no loss shall be borne by the Fund. S. 4 contains the provisions applicable on the closing of the Fund.

S. 5 provides for an increase of £50,000,000, in the amount available to complete the temporary housing programme under the Housing (Temporary Accommodation) Act, 1944.

S. 6 extends the powers of local authorities to give financial assistance towards the acquisition and construction of houses under the Small Dwellings Acquisition Acts, 1899 to 1923, and the Housing Act, 1936, by increasing the limit on the market value of houses in respect of which advances may be made from £800 to £1,500 and by similarly increasing the limit to which they may guarantee building society advances to members.

S. 7 is designed to ensure that, when a new house has been built by a private builder under a building licence containing conditions limiting the price at which the house may be sold or the rent at which it may be let, that house may not, for a period of four years, be sold at a price in excess of the permitted price or let at a rent in excess of the permitted rent. This provision is to prevent a black market arising in the sale of houses built privately under licence. S. 8 provides that conditions as to price and rent inserted in building licences are to be registered as local land charges. [704]

ARRANGEMENT OF SECTIONS

Expenses of the Minister of Works

Section	Page
1. Advances to Minister of Works	219
2. The Building Materials and Housing Fund	220
3. Payments into Building Materials and Housing Fund by the Minister of Health	221
4. Supplementary provisions as to Building Materials and Housing Fund . .	221
5. Increase of sums available for defraying expenses under 7 & 8 Geo. 6, c. 36	222

Powers of local authorities to provide financial assistance

6. Extension of powers of local authorities to give financial assistance towards acquisition, construction, etc., of houses	222
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Rent and purchase price of houses

Section	Page
7. Limitation of rent and purchase price of houses constructed under certain building licences	223
8. Registration of conditions imposed by building licences, and duties of local authorities	225
<i>Supplementary.</i>	
9. Interpretation	225
10. Application to Scotland	226
11. Application to Northern Ireland	227
12. Short title	227

An Act to make financial provision for the purpose of facilitating the production, equipment, repair, alteration and acquisition of houses and other buildings, and to make provision for limiting the price for which certain houses may be sold and the rent at which certain houses may be let.

[20th December, 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Expenses of the Minister of Works

1. Advances to Minister of Works.—(1) Subject to the provisions of this Act, the Treasury may, out of the Consolidated Fund of the United Kingdom or the growing produce thereof, advance money to the Minister of Works (hereinafter referred to as "the Minister") for the purpose of defraying expenses of the Minister in performing any of the following functions, that is to say—

- (a) purchasing building materials and purchasing permanent equipment for buildings ;
- (b) making and carrying out arrangements for the production and distribution of any such materials or equipment ; and
- (c) carrying out, on behalf of and at the request of any local authority, work undertaken by the authority in connection with the exercise of their powers to provide housing accommodation under Part V of the Housing Act, 1936. [705]

(2) No sums shall be advanced under this section after the end of September, nineteen hundred and fifty. [706]

(3) The total amount advanced under this section, exclusive of any sums which have been repaid, shall not at any time exceed one hundred million pounds. [707]

(4) Any advances made under this section shall be made upon such terms as to the payment of interest, and shall be repayable at such times, as the Treasury may determine. [708]

(5) For the purpose of providing money to be advanced under this section, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939 ; and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939. [709]

(6) In this section, the expression "local authority" means any local authority for the purposes of the Housing Acts, 1936 to 1944. [710]

Object of section.—The object of this section was given in the following remarks of the Minister of Works in moving the second reading in the House of Commons on November 26, 1945 (416 H. of C. Official Report 906) :

"Let there be no misunderstanding ; it is the intention of His Majesty's Government to go into business both in the manufacture and in the distribution of building materials

and components, in a big way. Neither the Ministry of Works nor the Ministry of Supply require any additional statutory powers to enable them to buy and sell building materials and components, or, in the case of the Ministry of Works, to arrange for the erection of houses on behalf of local authorities or to set up a distribution scheme. But it would obviously be improper for the Government to embark on what may develop into very large-scale commercial operations without the express approval of Parliament. Furthermore, the working capital necessary for these operations has to be provided and the ordinary machinery of annual votes is quite inappropriate for such a purpose."

Definitions.—For definitions of "building materials" and "permanent equipment for buildings," see s. 9 (1), *post*.

Sub-s. (1).—Government action in connection with building materials will be by way of (a) placing bulk purchase orders, (b) arranging manufacture in Royal Ordnance Factories, particularly in distressed areas, and subsequent resale and (c) entering into production agreements with firms for the manufacture of particular items of equipment, the Government indemnifying the firms in respect of goods unsold on the termination of the agreements. The distributing organisation to be set up is intended to supplement distribution through normal distributing channels, particularly builders' merchants. It is expected that the experience gained and the distribution centres already established in connection with the temporary housing programme will be of value in this connection.

Part V of the Housing Act, 1936.—This deals with the provision by local authorities of houses for the working classes. The Minister of Health stated in the House of Commons in the course of the second reading debate on November 26, 1945 (416 H. of C. Official Report 999), that it was not the intention of the Government to set aside the housing functions of local authorities, but that they nevertheless wished to have powers to reinforce the building strength of any area where reinforcement was necessary. Such reinforcement will be principally necessary in rural areas, and it is therefore the intention of the Government to form flying building squads for dispatch to those areas to construct certain forms of prefabricated houses which lend themselves to rapid construction with unskilled labour. Blitzed areas will also require labour reinforcement. Sums received from local authorities in return for Government assistance thus given will be paid into the Building Materials and Housing Fund (see s. 2, *post*).

Sub-s. (2).—In the Bill as originally presented to Parliament the date was September 30, 1947.

Sub-s. (3).—This sum represents a revolving credit upon which the Minister can draw for the performance of his functions under s. 1, *supra*. The total sums involved in these commercial transactions will presumably be greater than this amount. Interest is payable on sums outstanding in respect of advances (see sub-s. (4), *supra*).

Sub-s. (4).—See note to sub-s. (3), *supra*.

Sub-s. (6).—*Local authority for the purposes of the Housing Acts, 1936 to 1944.* This means as respects England and Wales other than the administrative county of London the council of a borough, urban district or rural district. As respects the administrative county of London it means:

- (a) as respects the City of London, the Common Council;
- (b) as respects the administrative county of London other than the City of London, the metropolitan borough council or the London County Council.

2. The Building Materials and Housing Fund.—(1) There shall be established, in accordance with directions of the Treasury, a fund, to be called the Building Materials and Housing Fund, which shall, subject to the provisions of this Act, be under the control and management of the Minister. [711]

(2) There shall be paid into the Fund—

- (a) all sums advanced to the Minister under this Act; and
- (b) to such extent as the Treasury may direct, any receipts of the Minister in connection with the performance of the functions specified in section one of this Act. [712]

(3) There shall be paid out of the Fund—

- (a) any sums paid by the Minister, whether on account of principal or interest, in respect of advances under this Act; and
- (b) to such extent as the Treasury may direct, any expenses of the Minister in performing the functions specified in section one of this Act. [713]

(4) The Fund shall be closed at such time after the end of September, nineteen hundred and fifty, as the Treasury may direct, and upon the closing of the Fund the provisions of this Act relating to payments into and out of the Fund, except those provisions which expressly relate to the sums standing to the credit of the Fund when it is closed, shall cease to have effect. [714]

(5) The Minister shall, as respects each financial year beginning with that in which sums are first advanced to him under this Act and ending with that in which the Fund is closed, prepare an account of receipts into and

payments out of the Fund in such form and manner as the Treasury may direct.

Any account prepared under this subsection shall, on or before the thirtieth day of November next following the expiration of the financial year in question, be transmitted to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof, together with his report thereon, before Parliament. [715]

The Minister means the Minister of Works (see s. 1 (1), *ante*).

Sub-ss. (2) and (3).—Into the Fund are to be paid :

- (a) Sums advanced by the Treasury to the Minister in pursuance of s. 1, *ante*.
- (b) Sums received by the Minister from the sale of materials, payments received from local authorities for assistance given to them and subsidies payable by the Minister of Health towards the cost of prefabricated houses (see s. 3, *post*).

Out of the Fund are to be paid :

- (a) payments to the Treasury on account of principal and interest in respect of advances made under s. 1, *ante*.
- (b) expenses of the Minister in carrying out the functions specified in s. 1, *ante*. See s. 9 (2), *post*, as to incidental expenses which may be included under this heading.

Sub-s. (4).—See the provision of s. 1 (2), *ante*, that no sums are to be advanced by the Treasury after September 30, 1950. See also s. 4 (2), *post*, as to sums standing to the credit of the Fund when it is closed.

3. Payments into Building Materials and Housing Fund by the Minister of Health.—(1) If the Minister has purchased building materials consisting of structures ready for erection as houses, and the Minister of Health, being satisfied that the cost of constructing houses from those materials substantially exceeds the cost of constructing houses of a similar size by traditional methods, has approved arrangements made by the Minister—

- (a) for selling such building materials to local authorities at prices fixed otherwise than by reference to their cost ; or
- (b) for constructing houses from such materials for local authorities at charges which are less than the full cost of construction ;

the Minister of Health shall, out of moneys provided by Parliament, make such payments into the Building Materials and Housing Fund as the Treasury may determine to be necessary for the purpose of securing that the receipts of the Fund are no less than they would have been if the arrangements had been such as to secure that the Minister would incur no loss and make no profit in the execution thereof. [716]

(2) For the purposes of this section, the cost of constructing a house shall include the cost of the building materials used in the construction thereof. [717]

General note on section.—This section authorises the payment of subsidies in respect of prefabricated houses. The reason for these subsidies was given by the Minister of Health in the course of the second reading debate in the House of Commons on November 26, 1945 (416 H. of C. Official Report 1004), in the following words :

" The point has been made in the Debate that the Bill arms the Minister of Health to pay an unknown amount of money for prefabricated houses, and it is said that we should have a quarterly statement as to what is paid in this way. The answer is this : we desire to supplement conventional building by prefabrication. We cannot start on a policy of prefabrication unless we have strong financial backing. Factory-built houses are an unknown proposition. We have to do one of two things, we either have entirely to abandon any new system of construction in the country or to be experimental. If we are to be experimental the local authority cannot carry the burden of the experiment. We cannot start producing experimental prefabricated houses and expect the local authority concerned to buy houses at the actual cost of production in the initial stages."

The intention of this section is that the Minister of Health should pay into the Fund the difference between the cost to the Minister of Works of a prefabricated house and the price at which it is sold to the local authority. With this sole exception the Minister of Works will not be reselling materials at less than their cost price.

Definitions.—For definitions of " building materials," " house," see s. 9, *post*.

The Minister means the Minister of Works (see s. 1 (1), *ante*).

4. Supplementary provisions as to Building Materials and Housing Fund.—

(1) All sums paid by the Minister to the Treasury in respect of advances

under this Act, whether on account of principal or interest, shall be paid into the Exchequer. [718]

(2) Any amount standing to the credit of the Building Materials and Housing Fund when it is closed shall be paid into the Exchequer, and, if any sums are then due from the Minister, whether on account of principal or interest, in respect of advances under this Act, shall be applied in or towards the satisfaction of those sums. [719]

(3) If after the Fund has been closed and after account has been taken of the amount, if any, which falls to be applied in accordance with the last preceding subsection, any sum is payable by the Minister, whether on account of principal or interest, in respect of advances under this Act, that sum shall be defrayed out of moneys provided by Parliament. [720]

(4) All sums paid into the Exchequer under this section shall be issued out of the Consolidated Fund of the United Kingdom at such times as the Treasury may direct and shall be applied by the Treasury as follows—

(a) so much of the said sums as represents interest shall be applied in paying interest which would, apart from this paragraph, have fallen to be paid out of the permanent annual charge for the National Debt; and

(b) save as aforesaid, the said sums shall be applied in redeeming or paying off debt of such description as the Treasury think fit. [721]

Effect of section.—This section provides for a settlement of accounts on the closing of the Fund. Since the intention is that the Fund should be largely self-supporting, it is not considered likely that the amount falling to be provided under sub-s. (3) will be large.

5. Increase of sums available for defraying expenses under 7 & 8 Geo. 6, c. 36.—The limit upon the sums which the Treasury may issue out of the Consolidated Fund of the United Kingdom for the purpose of defraying expenses incurred by the Minister in connection with the manufacture, construction or erection of structures under arrangements made with him by the Minister of Health or the Secretary of State under section one of the Housing (Temporary Accommodation) Act, 1944, shall be increased by fifty million pounds; and accordingly, in subsection (1) of section eight of that Act, for the words “one hundred and fifty million pounds” there shall be substituted the words “two hundred million pounds”. [722]

General note on section.—The object of the Housing (Temporary Accommodation) Act, 1944, was to facilitate the provision of temporary houses of the bungalow type, and s. 8 (1) of the Act authorised payment out of the Consolidated Fund of a sum not exceeding £150,000,000 to defray the expenses of the Minister of Works in this connection. The building of these temporary houses has proved more expensive than was originally anticipated, largely on account of the high cost of aluminium houses, and it has therefore been found necessary to increase the sum available to the Minister of Works to £200,000,000, in order to enable him to complete the temporary housing programme. The full programme provides for 165,000 houses which are estimated to cost £191,500,000. Part of this sum will be recovered by means of annual payments to be made by local authorities and out of the proceeds of disposal of the materials (the houses remain in the ownership of the Government) when the houses are taken down.

The Minister means the Minister of Works.

Powers of local authorities to provide financial assistance

6. Extension of powers of local authorities to give financial assistance towards acquisition, construction, etc., of houses.—(1) The limit fixed by subsection (1) of section ninety-two of the Housing Act, 1935, on the market value of houses in respect of which an advance may be made under the Small Dwellings Acquisition Acts, 1899 to 1923, shall, in relation to an advance made after the date of the passing of this Act, be increased from eight hundred pounds to fifteen hundred pounds. [723]

(2) Subsection (4) of section ninety-one of the Housing Act, 1936 (which provides that an advance or guarantee under that section shall not be made or given if the estimated value of the fee simple in possession free from

incumbrances of the house in respect of which the advance or guarantee is to be made or given exceeds eight hundred pounds) shall, in relation to an advance or guarantee made or given after the date of the passing of this Act, have effect as if for the words "eight hundred pounds" there were substituted the words "fifteen hundred pounds", and the provisions of that subsection relating to flats shall have effect accordingly. [724]

Effect of section.—See Preliminary Note, *ante*.

Sub-s. (1).—The Small Dwellings Acquisition Acts, 1899 to 1923 empower local authorities to advance money for the purchase or construction of small houses, and s. 92 (1) of the Housing Act, 1936, fixed the limit on the market value of houses in respect of which advances could be made under the former Acts at £800. The effect of this subsection is to raise the limit from £800 to £1,500.

Sub-s. (2).—The Housing Act, 1936, s. 91, empowers local authorities to make advances for the purchase or construction of houses and also to undertake to guarantee the repayment to a building or friendly society of any advances made by the society to its members for enabling them to build or acquire houses. *Sub-s. (4), ibid.*, then provides that an advance or guarantee under the section is not to be made or given if the estimated value of the fee simple in possession free from incumbrances of the house in respect of which the advance or guarantee is to be made or given exceeds £800. As in the case of advances under the Small Dwellings Acquisition Acts, 1899 to 1923, the sum of £800, which is not appropriate to present values, has been increased to £1,500.

Rent and purchase price of houses

7. Limitation of rent and purchase price of houses constructed under certain building licences.—(1) Where a house has been constructed under the authority of a licence granted for the purposes of a Defence Regulation (hereinafter referred to as "a building licence") and the licence, whether granted before or after the passing of this Act, has been granted subject to any condition limiting the price for which the house may be sold or the rent at which it may be let, any person who, during the period of four years beginning with the passing of this Act, sells or offers to sell the house for a greater price than the price so limited (hereinafter referred to as "the permitted price"), or, as the case may be, lets or offers to let the house at a rent in excess of the rent so limited (hereinafter referred to as "the permitted rent"), shall be liable on summary conviction to a fine not exceeding the aggregate of—

- (a) such amount as will in the opinion of the court secure that he derives no benefit from the offence; and
- (b) the further amount of one hundred pounds;

or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment. [725]

(2) For the purposes of this section, a house shall be deemed to have been let at a rent in excess of the permitted rent if the total rent payable by the tenant in respect of any part of the period for which the house is let exceeds the total rent which would have been payable by him in respect of that part of the said period if the house had been let at the permitted rent. [726]

(3) Where a house is sold for a consideration which consists wholly or partly of something other than the payment of a money price for the house, and it appears to the court that the whole of the consideration is capable of being expressed in terms of such a price, the court shall assess the total value of the consideration upon the assumption that the transaction is carried out in accordance with its terms, and the price shall be deemed to be such sum as, if paid at the time of the sale, would in the opinion of the court represent a benefit equivalent to the said total value. [727]

(4) Where a house is let for a consideration which consists wholly or partly of something other than the payment of a money rent for the house, and it appears to the court that the whole consideration is capable of being expressed in terms of money, the court shall assess the total value of the consideration upon the assumption that the transaction is carried out in

accordance with its terms, and shall determine a rent which appears to the court to represent a benefit equivalent to the said total value, and the rent so determined shall be deemed for the purposes of this section to be the rent at which the house was let. [728]

(5) In determining for the purposes of this section the consideration for which a house has been sold or let, the court shall have regard to any transaction with which the sale or letting is associated, and if it appears to the court that the benefits secured by that transaction to the vendor or lessor exceed what they would have been if the house had not been sold or let for the consideration for which it was in fact sold or let, that consideration shall be deemed to be increased by such sum as fairly represents the excess. [729]

(6) Where any person sells, lets, or offers to sell or offers to let a house together with any other property, the court shall, for the purpose of determining whether an offence has been committed against this section, make such apportionment of the consideration as the court thinks just. [730]

(7) Where proceedings are taken for an offence against this section, the court shall have the following powers, that is to say :—

(a) where any fine imposed by the court includes any such amount as is mentioned in paragraph (a) of subsection (1) of this section, the court may, if having regard to the circumstances the court thinks it just so to do, direct that the whole or any part of that amount, when paid or recovered, shall be paid over to any person who is shown to the court to have given, or to be liable to give, a consideration in excess of the permitted price, or, as the case may be, in excess of the permitted rent, in respect of the house in question ;

(b) where any person is convicted of the offence of letting a house at a rent in excess of the permitted rent, the court may, if the interest created by the letting has not expired at the time of the conviction, make such modifications of the terms and conditions of the letting as in the opinion of the court are necessary for the purpose of securing that the rent payable in respect of periods falling after the date of the conviction does not exceed the permitted rent ; and

(c) where any person is convicted of the offence of selling a house at a price in excess of the permitted price, the court may, if any sums remain payable on account of the price at the time of the conviction, make such modifications of the terms and conditions of the sale as in the opinion of the court are necessary for the purpose of securing, so far as practicable, that the price does not exceed the permitted price. [731]

(8) Subject to the provisions of the last preceding subsection, the commission of an offence under this section shall not affect the title to any property or the operation of any contract. [732]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of “ Defence Regulation,” “ house,” see s. 9, *post*.

Sub-s. (1).—Building licence. A private builder must obtain a licence in pursuance of Regulation 56A of the Defence (General) Regulations, 1939, to build a new house and this licence may be granted subject to conditions. At present a private builder cannot obtain a licence to build a house of a greater value than £1,300 in London and £1,200 elsewhere, and his licence will state the maximum rent at which the house may be let. These restrictions are designed to ensure that the limited facilities available in labour and materials are employed upon houses for which there is the greatest need, viz. those of moderate value. This section and the following section (providing for registration of a condition as to price and rent in a building licence as a local land charge) are intended to prevent, for a period of four years, the sale of a privately-built house at more than the permitted price or a letting at more than the permitted rent. See s. 9 (3), *post*, as to what constitutes a sale or letting of a house for the purposes of this Act, and s. 9 (4) as to determining whether any person has sold or offered to sell a house at more than the permitted price or let or offered to let a house at more than the permitted rent.

Penalties.—Note that a person who charges more than the permitted price or permitted rent may, on conviction, be ordered as part of the penalty to pay the amount of the excess

and this amount may, under sub-s. (7), paragraph (a), be paid, wholly or in part, to the person who has paid or become liable to pay the excess price or rent.

Sub-ss. (3), (4) and (5).—These subsections are designed to prevent evasions of the restrictions on price and rent.

Sub-s. (6).—Where a property built under licence is sold or let together with another property, the court shall, for the purpose of determining whether there has been a sale in excess of the permitted price or a letting in excess of the permitted rent, make an apportionment of the consideration involved.

Sub-s. (7).—Paragraph (a). See note to sub-s. (1), *supra*.

Paragraph (b). The court is enabled to adjust the terms of a tenancy agreement if the tenancy is still in existence, in order to bring the rent down to a figure which does not exceed the permitted rent.

Paragraph (c).—The court has power, where the price of a house is payable by instalments, to adjust the price so that it does not exceed the permitted price.

8. Registration of conditions imposed by building licences, and duties of local authorities.—(1) Where a building licence has been granted, whether before or after the passing of this Act, subject to any condition limiting the price for which a house may be sold or the rent at which it may be let, section fifteen of the Land Charges Act, 1925, as amended by the Law of Property (Amendment) Act, 1926, shall have effect as if the condition were a local land charge acquired by the local authority in the area of which the house is situated, and it shall be the duty of the proper officer of the local authority to register the condition accordingly. [733]

(2) It shall be the duty of every local authority to take such measures as they think necessary for securing the enforcement, in relation to houses within the area of the authority, of the provisions of this Act relating to the permitted price and permitted rent for houses. [734]

(3) In this section the expression "local authority" means the council of any county borough, county district or metropolitan borough, and the Common Council of the City of London. [735]

Effect of section.—See Preliminary Note and notes to s. 7 (1), *ante*.

S. 15 of the Land Charges Act, 1925.—This section provides for the registration of local land charges.

"House."—For definition, see s. 9 (3), *post*.

The proper officer of the local authority.—The proper officer to register a condition is the clerk to the local authority or the person for the time being authorised to act as clerk (Local Land Charges Rules, 1934, r. 4).

Supplementary

9. Interpretation.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them—

"Building materials" includes any product which, or a derivative of which, is capable of being used to form part of a building or of any works preparatory or incidental to the provision of a building, or of being used for preserving or finishing a building or a part of a building, and includes any structure ready for erection as a building or as part of a building;

"Defence Regulation" means a Defence Regulation made under the Emergency Powers (Defence) Acts, 1939 to 1945, and includes any Regulation so made which has continued to have effect, whether with or without variations, under the provisions of any other enactment;

"Permanent equipment for buildings" means any article which is intended to be provided for permanent enjoyment with a particular building. [736]

(2) For the purposes of this Act, the expenses of the Minister in performing the functions specified in section one of this Act shall be deemed to include any expenses of the Minister which are incidental to the performance of those functions, and shall be deemed to include such amounts as may be determined by the Treasury to be reasonable—

(a) on account of any premises, supplies or services provided by or for the service of any Government department and used in connection with the performance of those functions; and

(b) on account of expenses which fall or may ultimately fall to be borne in providing benefits under the Superannuation Acts, 1834 to 1943, in respect of persons who have been employed in connection with the performance of those functions. [737]

(3) For the purposes of this Act—

(a) a person sells a house if he sells or agrees to sell any interest in the house ;

(b) a person lets a house if he demises the house or agrees to demise it, and

(c) the expression " house " includes a flat, and any structure constructed for use as a dwelling. [738]

(4) In determining for the purposes of this Act whether any person has sold or offered to sell a house for a price in excess of the permitted price, or has let or offered to let a house at a rent in excess of the permitted rent, any property which, in the absence of express provision, would pass upon a conveyance of the legal estate in fee simple in the house, and any yard garden outhouses and appurtenances usually enjoyed with the house, shall be deemed to form part of the house. [739]

10. Application to Scotland.—(1) This Act shall apply to Scotland subject to the modifications contained in the subsequent provisions of this section. [740]

(2) For any reference (except in section five) to the Minister of Health there shall be substituted a reference to the Secretary of State. [741]

(3) For any reference to the Housing Acts, 1936 to 1944, there shall be substituted a reference to the Housing (Scotland) Acts, 1925 to 1944 ; for any reference to Part V of the Housing Act, 1936, there shall be substituted a reference to Part III of the Housing (Scotland) Act, 1925 ; for any reference to section ninety-two of the Housing Act, 1935 there shall be substituted a reference to section eighty-three of the Housing (Scotland) Act, 1935 ; and for any reference to the Small Dwellings Acquisition Acts, 1899 to 1923, there shall be substituted a reference to the Small Dwellings Acquisition (Scotland) Acts, 1899 to 1923. [742]

(4) Section one shall have effect as if after paragraph (c) of subsection (1) the following paragraph were inserted :—

" (d) carrying out on behalf of the Scottish Special Housing Association (being the association approved for the purposes of section two of the Housing (Financial Provisions) (Scotland) Act, 1938) work undertaken by that Association in connection with the provision by them of housing accommodation for the working classes."

[743]

(5) In section three any reference to a local authority shall include a reference to the Scottish Special Housing Association. [744]

(6) For subsection (2) of section six there shall be substituted the following subsection :—

" (2) Subsection (4) of section seventy-five of the Housing (Scotland) Act, 1925, as amended by section sixty-seven of the Housing (Scotland) Act, 1935 (which subsection as so amended provides that an advance or guarantee under the said section seventy-five shall not be made or given in respect of a house the value of which exceeds eight hundred pounds), shall in relation to an advance or guarantee made after the date of the passing of this Act have effect as if for the limit of eight hundred pounds there were substituted a limit of fifteen hundred pounds and the provisions of the said subsection relating to flats shall have effect accordingly ". [745]

(7) For any reference to the legal estate in fee simple there shall be substituted a reference to the estate or interest of the proprietor of the *dominium utile* or, in the case of property other than feudal property, of the owner. [746]

(8) In section eight the expression "local authority" means a county or town council and nothing in subsection (2) of the said section shall be construed as authorising a local authority to institute proceedings for an offence against this Act. [747]

11. Application to Northern Ireland.—(1) Sections three, five, six and eight of this Act shall not extend to Northern Ireland; and this Act shall, in its application to Northern Ireland, have effect as if paragraph (c) of subsection (1) of section one were omitted therefrom. [748]

(2) In the application of this Act to Northern Ireland, section seven thereof, and so much of section nine thereof as relates to the said section seven, shall be deemed for the purposes of section six of the Government of Ireland Act, 1920 (which relates to the power of the Parliament of Northern Ireland to make laws), to be provisions of an Act passed before the appointed day. [749]

12. Short title.—This Act may be cited as the Building Materials and Housing Act, 1945. [750]

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 68CA TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1945, No. 1361

October 30, 1945

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 to 1945, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that after Regulation sixty-eight C of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation:—

"68CA.—(1) No person shall except with the consent of the local housing authority use for purposes other than residential purposes any housing accommodation which has been used for residential purposes at any time since the thirty-first day of December, nineteen hundred and thirty-eight:

Provided that nothing in this paragraph shall affect—

- (a) the use of accommodation for any purpose by a person who is using it for that purpose at the coming into operation of this Regulation, or the use of accommodation for the purpose of any trade or business by a person who is the partner or successor in that trade or business of a person who was using the accommodation for the purpose of that trade or business at the coming into operation of this Regulation;
- (b) the use of any accommodation by a person residing in the building in which the accommodation is situated.

In the application of this paragraph to the use of accommodation for the purposes of any Government department, for the reference to the local housing authority there shall be substituted a reference to the Minister of Health.

(2) Any person who is aggrieved by the refusal of the local housing authority to grant its consent for the purposes of this Regulation may appeal to the Minister of Health, and the decision of the Minister on any such appeal shall be treated for the said purposes as the decision of the local housing authority.

(3) In this Regulation the following expressions have the meanings hereby assigned to them respectively, that is to say :—

“housing accommodation” means a building or part of a building, being a building or part constructed for residential purposes, whether or not subsequently adapted for other purposes, or adapted for residential purposes ;

“local housing authority”, in relation to any housing accommodation, means the council of the county borough, county district or metropolitan borough in which the accommodation is situated or, in relation to accommodation situated in the City of London, the Common Council of the City of London ;

“residential purposes” includes the purposes of an hotel or common lodging house, or of any other business of providing lodging.

(4) In the application of this Regulation to Scotland—

(a) for any reference to the Minister of Health there shall be substituted a reference to the Secretary of State ;

(b) the expression “local housing authority” means in relation to any housing accommodation the council of the county or burgh in which the accommodation is situated.

(5) This Regulation shall not extend to Northern Ireland.” [751]

* * * * *

ORDER IN COUNCIL ADDING REGULATION 68CB TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1945, No. 1452

November 16, 1945

After Regulation sixty-eight CA of the Defence (General) Regulations, 1939, the following Regulation shall be inserted :—

68CB.—(1) Where a local housing authority have established a register for the purposes of this Regulation, any person having in any dwelling in the area of the authority occupied by him living accommodation which he is willing to make available, whether with or without furniture for use therein, for occupation by tenants or lodgers, may apply to the authority for registration of the accommodation and of the terms on which the householder is willing to make it available as aforesaid.

(2) On application being made under the last foregoing paragraph the local housing authority shall, if they are satisfied that the accommodation is, or will be rendered, suitable for occupation as aforesaid and approve the said terms, enter the accommodation and terms in the register, together with any conditions as to the number of persons to occupy the accommodation, the use of furniture or other facilities or otherwise as the authority may think requisite :

Provided that the authority shall not be required to register any accommodation, and may cancel the registration of any accommodation, if it appears to them that it would be likely to be made available for occupation as aforesaid without being registered under this Regulation.

(3) The registration for the purposes of this Regulation of any accommodation shall be cancelled on the application of the person for the time being entitled, subject to the rights over the accommodation of any tenant or lodger, to occupy the dwelling in which it is comprised; and any registered terms or conditions may be varied by the local housing authority on any such application.

(4) While accommodation is registered for the purposes of this Regulation, it shall be lawful, notwithstanding any provision to the contrary in any lease or tenancy or in any covenant, contract or undertaking relating to the use to be made of any land, and notwithstanding any restriction imposed by or under any enactment, for the accommodation to be made available for occupation, and to be occupied, as aforesaid in accordance with the registered terms and conditions.

(5) A local housing authority shall have power to carry out, or defray the cost of carrying out, works, and to provide, or defray the cost of the provision of, fittings, furniture or equipment, which appear to the authority to be necessary for enabling use to be made of accommodation registered by them for the purposes of this Regulation, and may enter into agreements as to the ownership and disposal of such fittings, furniture or equipment provided by them or at their cost; and any such works may be carried out notwithstanding any such provision or restriction as is mentioned in the last foregoing paragraph.

(6) No accommodation registered for the purposes of this Regulation which has been let in accordance with the registered terms and conditions shall, as respects that letting, be treated as a dwelling-house to which the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, apply; and in determining for the purposes of those Acts the standard rent of any dwelling-house no regard shall be had to any such letting of such accommodation.

(7) In this Regulation the expression 'local housing authority' means the council of a county borough, county district or metropolitan borough or the Common Council of the City of London.

(8) In the application of this Regulation to Scotland the expression 'local housing authority' means a county or town council.

(9) This Regulation shall not extend to Northern Ireland." [752]

* * * * *

Circular 104/45

To County Boroughs, Town Councils, Urban District Councils, Rural District Councils (County Councils for information), England.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
1st June, 1945.

SIR,

SUBMISSION OF TENDERS FOR THE ERECTION OF HOUSES AND FLATS

I am directed by the Minister of Health to enclose for the information of the Council a copy of a Memo. specifying the information which should accompany any tender (or direct labour estimate) for the erection of houses or flats submitted for his approval. Such tenders should not, of course, be invited until the Council have received the Minister's authorisation.

An extra copy of this Circular is enclosed for the Council's Technical Officer. [753]

I am, Sir, etc.

The Clerk to the Authority.

(Enclosure to Circular 104/45)

Memo. 289/Housing

PERMANENT HOUSING PROGRAMMES

INFORMATION WHICH SHOULD ACCOMPANY A TENDER (OR DIRECT LABOUR ESTIMATE) SUBMITTED BY A LOCAL AUTHORITY FOR APPROVAL

1. Name of site on which house will be erected, stating whether it has been acquired.
2. If all roads, sewers and other services are not in existence, brief particulars of outstanding site works with the estimated cost (if tenders have not already been approved) and date of completion should be given and it should be indicated whether building work can proceed at the same time.
3. Date of submission of house plans or the plans if they have not already been submitted.
4. A list of the tenders received, with an indication of the tender proposed to be accepted. If the lowest is not recommended, the reasons for not recommending it should be given.
5. The average price per house or flat for each type, including the cost of paths, drains and fences, and other building items, but not the cost of land, roads, sewers and Architect's Fees. Where separate prices have not been quoted for each type, the average price for all houses or flats in the tender should be given.
6. The superficial area of each type (or the average floor area if houses of the same types vary in size), the superficial area of outbuildings being shown separately.
7. A copy of the Specification.
8. A copy of the Bills of Quantities (if any) and of the Schedule of Prices as agreed between the authority and the proposed contractor.
9. A copy of the conditions of the contract proposed to be entered into and of any special instructions which will be given to the contractor.
10. Estimated dates of commencement and completion of the contract.
11. Confirmation that the local authority have ascertained that the contractor has sufficient labour to enable him to proceed with reasonable expedition. [754]

MINISTRY OF HEALTH,
WHITEHALL, S.W.1.

June, 1945.

Circular 149/45

To all Housing Authorities, County
Councils (for information) (Eng-
land).

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.

9th August, 1945.

SIR,

BILLS OF QUANTITIES FOR HOUSING WORK

I am directed by the Minister of Health to refer to the report issued by the Ministry of Works on the Placing and Management of Building Contracts, and to Circular 118/45 issued on the 20th June, 1945, on the subject of the permanent house programme, and to say that further consideration has been given to the use by local authorities of bills of quantities in seeking tenders from contractors for the erection of municipal houses.

As you are doubtless aware, representations have been made to the Minister by the building industry from time to time that bills of quantities should be provided by local authorities. In view of the experience in municipal housing work over the last 20 years, the Minister has not been satisfied that the provision of ordinary bills of quantities was conducive to low prices, and he has not therefore seen his way to recommend the practice. He has, however, realised that simpler bills of quantities would give real assistance to the contractors in framing their estimates and might be open to less objection. The Minister has, therefore, watched with interest the efforts of the Chartered Surveyors' Institution and the National Federation of Building Trades Employers to devise a simpler system.

The Institution and the Federation have now jointly prepared a simpler system of measurement for the superstructure of small dwelling-houses. This system enables a considerable reduction in the number of items in the bill of quantities, and it appears to the Minister that its use by local authorities should be seriously considered. I am accordingly to encourage local authorities to make the fullest trial with the new system.

A copy of the new Code for the Measurement of Building Work in Small Dwelling Houses may be obtained from the Secretary of the Chartered Surveyors' Institution, 12, Great George Street, London, S.W.1. [755]

I am, Sir, etc.

The Clerk to the Authority.

CASES

Public Health—Housing—Small dwellings—Money advanced by local authority for purchase of small house—Charge by way of legal mortgage—Foreclosure—Local authority takes possession—Increase in value of house—Whether local authority entitled to pay mortgagor profit on sale of house—Small Dwellings Acquisition Act, 1899 (c. 44), ss. 3 (3), 5, 6.

Under the provisions of the Small Dwellings Acquisition Act, 1899, a local authority advanced A.B. the purchase money for his house by way of legal mortgage. A.B. died in October, 1939, and in 1940 his personal representative wrote to the local authority asking them to foreclose and also handed over the keys of the house. The local authority thereupon obtained an order allowing them to enforce the power of sale, but, on the house being offered for sale, it was impossible to find a purchaser at the price required. Since then, however, owing to the shortage of house property, the value of the house had considerably increased and the local authority thought that they would now be able to sell it for a sum in excess of the amount owing on the mortgage and interest. They wished to let A.B.'s personal representative have the benefit of the increased value and, therefore, asked for the decision of the court as to whether they were at liberty to pay her the sum representing the difference between the amount owing to them for principal and interest and the net purchase price received by them on the sale of the property. They contended that the words "shall not be liable to pay" in s. 6 (2) of the 1899 Act did not mean "shall not pay" but left them an option:—

Held: the local authority were trustees for the ratepayers and, on the true construction of the Small Dwellings Acquisition Act, 1899, s. 6 (2), they were not at liberty to make the payment.—*Re BROWN'S MORTGAGE, WALLASEY CORPN. v. A.-G.*, [1945] Ch. 166; [1945] 1 All E. R. 397; 114 L. J. (Ch.) 81; 172 L. T. 210; 109 J. P. 105; 89 Sol. Jo. 106; 43 L. G. R. 66 *Sub. nom. WALLASEY CORPN. v. A.-G.*, 61 T. L. R. 230. [756]

Public Health—Housing—Insanitary house—House let as two separate tenements—Two parts of house rated by local authority as separate dwellings—Statutory notice to carry out repairs—Failure to comply with notice—Work carried out by local authority—Right of appeal to county court not exercised—Validity of notice and demand—No separate notices required—Housing Act, 1936 (c. 51), ss. 9, 10, 15, 23, 188.

The local authority in whose area a house was situated, which was suitable for occupation by persons of the working classes within the meaning of the Housing Act, 1936, served a notice upon the appellant landlord to carry out certain specified repairs to various parts of the building. At the date of the notice the house was let by the appellant to two separate tenants, one of whom occupied the ground floor and the other the upper floor. The house was not structurally divided, both tenants using the same entrance door, hall and internal corridor. The local authority had, however, rated the two parts of the house as separate dwellings. The appellant failing to carry out the work required by the notice, the respondent local authority proceeded to do the work through some contractors. The appellant also did not comply with the demand of the respondent local authority to pay for the expenditure incurred by them, nor did he exercise his right to appeal to the county court against either notice or demand. In default of payment proceedings were taken summarily before the magistrates and the respondents obtained an order against the appellant for the repayment of £75 10s. 0d. and costs. On appeal it was contended for the appellant that the notice and the demand which followed it were not valid since separate notices and separate demands in respect of each tenant were required, and that the appellant was entitled to know the costs of the separate items. It was further contended that the work was not properly carried out, and was not necessary, and that some repairs specified by the notice were not carried out at all :—

Held : (i) though the house was divided into accommodation for two separate families, and though it was rated as separate dwellings, the appellant landlord was not entitled to separate notices and separate demands under Part II of the Housing Act, 1936.

(ii) by the express provisions of the Housing Act, 1936, s. 15, the appellant was entitled to raise the matters complained of on appeal to the county court within the time prescribed by the section. The appellant not having done so, it was not within the power of the magistrates to adjudicate upon such matters, and their decision was, therefore, correct.—*BENABO v. WOOD GREEN BOROUGH COUNCIL*, [1946] K. B. 38 ; [1945] 2 All E. R. 162 ; 114 L. J. (K. B.) 391 ; 173 L. T. 123 ; 109 J. P. 222 ; 61 T. L. R. 486 ; 89 Sol. Jo. 370 ; 43 L. G. R. 150, D. C. [757]

Public Health—Housing—Clearance area—Compulsory purchase order—Person aggrieved—Jurisdiction of High Court to review order—Housing Act, 1936 (c. 51), ss. 25, 29 (2), (3), 42, 188 (4)—R.S.C., Ord. 55B, r. 71.

Certain premises were found to be unfit for human habitation and were made the subject of a compulsory purchase order under the Housing Act, 1936, s. 25. After considering the objections and all the evidence before him together with the report of the inspector who held the inquiry the Minister confirmed the order. On an application to the High Court under the Housing Act, 1936, Sched. II, para. 2, by the lessee of those premises as a person aggrieved by the order to question its validity :—

Held : the court could only look into the evidence before the Minister for the purpose of deciding whether the order was within the powers of the Act. On the particular facts here, there was evidence justifying the Minister in confirming the order.—*Re LONDON COUNTY COUNCIL (RILEY STREET, CHELSEA, No. 1) ORDER, 1938*, [1945] 2 All E. R. 484 ; 173 L. T. 253 ; 43 L. G. R. 292. [758]

INFANTS, CHILDREN AND YOUNG PERSONS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	Children and Young Persons (Voluntary Homes) Regulations, 1945	PAGE
Children and Young Persons (Contributions by Local Authorities) Regulations, 1945	233		233

ORDERS, CIRCULARS AND MEMORANDA

THE CHILDREN AND YOUNG PERSONS (CONTRIBUTIONS BY LOCAL AUTHORITIES) REGULATIONS, 1945

S. R. & O., 1945, No. 22

January 10, 1945

In pursuance of the power conferred upon me by subsection (1) of section 90 of the Children and Young Persons Act, 1933, I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, hereby make the following regulations :—

1. The contributions to be made by the local authority named in an approved school order to the expenses of the managers of an approved school throughout the time during which the person to whom the order relates is under the care of the said managers and not out on licence or under supervision shall be at the rate of twenty-seven shillings a week ;

Provided that this Regulation shall not apply to a local authority named in an approved school order where the managers having under their care the person to whom the order relates are that local authority, whether as local education authority for elementary education or otherwise, or are a joint committee upon which that local authority, whether as local education authority for elementary education or otherwise, is represented. [759]

2. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [760]

3.—(1) These Regulations may be cited as the Children and Young Persons (Contributions by Local Authorities) Regulations, 1945.

(2) These Regulations shall come into force on the first day of April, 1945.

(3) The Children and Young Persons (Contributions by Local Authorities) Regulations, 1944, are hereby revoked. [761]

* * * *

THE CHILDREN AND YOUNG PERSONS (VOLUNTARY HOMES) REGULATIONS, 1945

S. R. & O., 1945, No. 1196

September 26, 1945

In pursuance of the powers conferred upon me by section 93 of the Children and Young Persons Act, 1933, I hereby make the following Regulations :—

1. The particulars set out in the Schedule to these Regulations shall be the particulars to be sent to the Secretary of State with respect to voluntary homes in accordance with the said Act. [762]

2. The particulars shall be sent to the Secretary of State in the year nineteen hundred and forty-five before the first day of November and in every subsequent year before the first day of July. [763]

3.—(1) These Regulations may be cited as the Children and Young Persons (Voluntary Homes) Regulations, 1945.

(2) The Children and Young Persons (Voluntary Homes) Regulations, 1933, are hereby revoked. [764]

* * * * *

SCHEDULE

1. Name and full postal address of the Voluntary Home.
2. (a) If a national society is responsible for the Home, the name of the society.
(b) If a local committee exists, the name and address of (i) the chairman and (ii) the secretary.
3. (a) Particulars as to whether the Home is an orphanage, training home, shelter or other type of institution.
(b) Usual length of stay in the Home.
4. Religious denomination of the Home.
5. Particulars as to any special conditions of admission to the Home.
6. Name and designation of person in charge of the Home.
7. (a) Number of staff who are (i) men and (ii) women.
(b) Number of staff who are (i) qualified teachers and (ii) nurses.
8. Total number, excluding staff, for whom accommodation is available.
9. Number at present in the Home—

	Under 2	Aged 2-5	Aged 5-8	Aged 9-13	Aged 14-16	Over 17	Total
Boys ..							
Girls ..							

10. Number of children and young persons—

	In the Home	Outside the Home
(a) attending school full-time		
(b) receiving part-time continued education		
(c) receiving vocational training		
(d) at work		

11. Particulars as to the extent to which contact is maintained with relatives and friends by means of (i) letters, (ii) visits and (iii) holidays.

12. Particulars as to the arrangements made for after-care in regard to (i) the use made of the juvenile employment exchange or other agency, (ii) the type of employment mainly found and (iii) supervision on leaving the Home.

13. (a) Whether or not there is medical inspection on admission.

(b) Particulars as to the regular intervals at which there is subsequent medical inspection.

(c) Whether or not there are kept (i) records of weights and heights and (ii) general health records.

14. (a) Total income (including voluntary contributions) for the Home's last financial year.

(b) Amount of voluntary contributions during the Home's last financial year.

15. (a) The name of any government department or departments which inspect the Home.

(b) The date of the last such inspection.

16. Particulars as to the general timetable at the Home, including meal hours and times for recreation, on (i) weekdays and (ii) Sundays. [765]

LAND, ACQUISITION, SALE, ETC., OF

STATUTES :—

Requisitioned Land and War Works Act, 1945 - - - - - PAGE 235

STATUTES

REQUISITIONED LAND AND WAR WORKS ACT, 1945

(8 & 9 Geo. 6, c. 43)

PRELIMINARY NOTE

This Act was made necessary primarily because of the requisition during the war by or on behalf of Government departments of land and interests therein in the exercise of emergency powers under Defence Regulations. It seeks to regularise the position by enabling the Government compulsorily to acquire, under the Defence Acts, the requisitioned land or interest therein on payment of compensation to the owner and so preserving to the Government the value of the works done on the land and enabling them to dispose of the land and works at their full value. Alternatively, the Government are themselves enabled to use the war works, for example, to put a service airfield to civil use, or to control their use, for example, in the case of deep shelters provided in connection with the Underground Railway System. Conversely, the Government may acquire land which has depreciated in value by its war use in order to rehabilitate it. The Act was also necessary to provide a permanent authorisation of the emergency stopping up of highways, laying of railways, mains, telegraph lines, etc., and finally, to provide a simplified procedure for the compulsory acquisition by local authorities of land which, under Defence Regulations, they had been enabled or directed by Ministers to occupy or use for the carrying out of their many essential duties. In the last war similar powers became necessary and were conferred by the Defence of the Realm (Acquisition of Land) Act, 1916, of which the present Act is the modern counterpart.

The extent of the Government's war-time action with respect to land may be seen in the following extracts from the Parliamentary reports of the proceedings on the second reading. In the House of Commons on February 13, 1945, the Chancellor of the Exchequer stated (408 H. of C. Official Report 65) :—

“As to the background of the Bill, all hon. Members, I am sure, know that under the stress of war, and particularly in the early days of the war, extensive works were carried out at the public expense on requisitioned land or on land which remained in possession of its private owner. Those works included factories, airfields, camps, hostels, defence works of all kinds, and so forth. The expenditure involved in the works which are within the scope of this Bill amount, although I cannot give a very precise estimate, to something probably of the order of £700,000,000, of which probably about £60,000,000 represents the cost of factories alone. Much of that heavy expenditure must, I fear, be regarded as having served its purpose when the war comes to an end and will prove irrecoverable. Nevertheless, a not inconsidered part of the expenditure is represented by valuable material assets, valuable either for use or for disposal.”

In the House of Lords on June 4, 1945, the Lord Chancellor stated (136 H. of L. Official Report 341) :—

“This Bill deals with a number of problems arising out of the use by the Government for war purposes of land which remains in private ownership. Of course, if the land has been acquired under the Defence Act and has become the property of the Government, there is nothing more to be said. But vast areas of land have been made use of by the Government during the war without being purchased by the Government. Some of the land has been requisitioned and the ownership remains where it was. In some cases possession has never even been temporarily undertaken because by Defence Regulation No. 50 there was power for Government departments to do work on land without even so much as taking possession. You might have an anti-aircraft

gun put in the corner of some field without actually taking possession of the ground upon which it was placed. Owing to the necessity for speed in erecting factories, the creation of airfields, the improvement of communications, providing accommodation for troops and workers and so forth, very large sums of public money have been spent on buildings and other works which have been erected on land which the Government have never acquired, for the most part on requisitioned sites."

If the Government were not given these powers of compulsory acquisition, they would be obliged, on the land becoming de-requisitioned, to hand back not only the land, which they probably received in a bare state, but also the buildings which had been erected thereon at public expense, in accordance with the common law rule that anything fixed to the freehold becomes part of the freehold and passes with it. On this point the Chancellor of the Exchequer, in moving the second reading in the House of Commons, on February 13, 1945, stated (408 H. of C. Official Report 65):—

"I invite hon. Members to ask themselves what the position would be in regard to all those works if we had no Bill, if we left the existing law to take its course. The position can be very simply stated. It is this: The land, with the buildings and works on it, subject to such re-instatements or adjustments as might be practicable, would have to be handed back to the private owner with, so far as re-instatement had not been carried out, compensation for damage. In the case of requisitioned land the compensation for damage would be limited only by the value of the land at the time of requisition. In the case of works carried out on land not requisitioned, but which remained in private ownership under Defence Regulation 50, the statutory limit of compensation which may be paid is the amount by which the land has depreciated in value as the result of the work done on it. As I say, the land with the works on it would have to be handed back with compensation for damage, and there would be no assurance at all that the sums paid in compensation, which might be very large sums, would in fact be used to restore the land, to remove eye-sores or whatever it might be.

"That is the position as the law stands. Moreover, the Government would have no right to keep, subject to an exception to which I will refer in a moment, any of the works which had been provided at the taxpayer's expense, nor would they be entitled to claim a single penny from the owner of the land, to whom the works would revert, in respect of their value. The one exception is the case of works required for defence where, under existing Defence Acts, the Government would have the power, as the law stands, to acquire the land; but in that case, under the existing law, the Government would have to pay compensation to the owner of the land not merely for the land as it was when the Government entered upon it and started erecting the works, but for the land with the works—the factory, the airfield, the hostels, the houses, whatever it might be—on the land. The Government would, as the law stands, have to pay the owner for the work that had been carried out on the land, so far as it had a value, at the public expense. In view of what I have said I do not think that any hon. Member in any quarter of the House will question the need for legislation of some kind."

It should be mentioned here that the emergency powers generally used in the war by the Government or local authorities or other bodies so authorised or directed by them were contained in the Defence (General) Regulations, 1939, S. R. & O., 1939, No. 927, as amended. These emergency powers generally were expressed by s. 1 (1) of the Emergency Powers (Defence) Act, 1939, and in the Defence Regulations themselves, to be conferred for any purposes connected with the defence of the realm, the efficient prosecution of the war, the securing of public safety, the maintenance of public order, the maintenance of supplies and services essential to the life of the community. With so wide a description of permitted objects the action taken by any Minister under any one of the powers could hardly be open to challenge. The owner of, or person interested in, land of which possession was taken or use made under emergency powers could not therefore prevent such action being taken or call for its cancellation. There was, however, a right to claim compensation under the Compensation (Defence) Act, 1939, and this Act, and the

rights it gives generally are confirmed by the 1945 Act, which, however, makes a number of material amendments in its provisions.

The Act is divided into ten Parts. Part I contains provisions for the establishment of a body called the War Works Commission and for regulating its procedure. The Commission is to act as an impartial tribunal between Government and private interests and its functions are, briefly, to report on matters arising out of (a) any Minister's proposals to acquire land or easements or rights or to discharge the latter, and (b) the Minister of War Transport's proposals to stop up or divert a highway or to retain in or on it a railway, tramway, cable, wire, main or pipe. The Lord Chancellor, in moving the second reading in the House of Lords said (136 H. of L. Official Report 348):—

“The intention is that the Commission shall be as strong and impartial a body as we can put together; and it will adjudicate, I have not the slightest doubt—it is not an instrument of Government in any way—as fairly as ever it can between the interests of the Government on the one hand and the private interests on the other.”

Part II empowers various Ministers to acquire land under the Defence Acts where (a) there are Government war works on the land, or (b) where the value of the land has been diminished by Government war work or by damage caused by Government war use and it is desirable in the public interest that it should be totally or partially rehabilitated, or (c) the land is contiguous or adjacent to that coming within categories (a) and (b). The Ministers are also given power to acquire under the Defence Acts easements or restrictive rights over land which are essential for the full enjoyment of the land in (a), (b) or (c) above, and may, if there are government works on land discharge or modify any restrictions as to user of that land or any buildings thereon if the continued existence of the restrictions would prevent the retention of the works on the land or would prevent or impede the reasonable user of the works for public or private purposes. Any person interested in the land entitled to the benefit of a restriction so discharged or modified is entitled to receive compensation in respect of any diminution in value as a result of such discharge or modification. Land on which there are Government war works may be acquired on the grounds (a) that the value of the works ought to be preserved for the Crown, or (b) the right to use the works ought to be preserved for the Crown, or (c) the right to determine the use to which the works should be put ought to be secured for the Crown.

The Minister must publish notice of any proposals for compulsory acquisition, specifying the grounds of the proposals, and a time, not being less than 3 months from the date of publication, within which notice of objection must be sent to the Minister. If an objection is received within the time specified, the Minister must, unless he decides not to proceed with the proposals, refer them to the War Works Commission for a report. The Commission must hear objectors and must also notify the Minister of Town and Country Planning and consider any information or representations by him of any substantial objections on the grounds that the proposals are not in accordance with national or local interests or planning or amenity requirements. In the case of certain industrial premises the above procedure is expedited by reducing from 3 months to 14 days the period within which notice of objection may be served, and the requirement of notifying the Minister of Town and Country Planning is dispensed with.

The Minister, on receiving the Commission's report, must publish it and send it to any person who has made an objection. The general rule is that where the Commission reports that the land or easement or right ought not to be acquired or the restriction not discharged, the Minister may not proceed with the acquisition or discharge. There are, however, cases where the Minister may proceed with his proposals notwithstanding that they have been vetoed by the Commission. Where the ground for acquiring the land is that the right to use or to determine the use of the works should be preserved or secured by the acquisition of the land, the Minister may proceed with his proposals notwithstanding the Commission's veto, though if he does so he must first lay before both Houses of Parliament a copy of the Commission's report and a statement of his reasons for proceeding with the proposal. If either House of Parliament resolves that the proposals are not to be proceeded with otherwise than in accordance with the Commission's report the Minister shall not proceed with the proposals otherwise than in accordance with the

report. The reason for the above exception is that, unlike the case of an acquisition to preserve the value of works, which is purely a financial step, questions of Government policy are involved, and it is considered undesirable that a final determination of such questions should rest with an independent body instead of with Parliament.

There are special provisions restricting the powers of the Minister with respect to the acquisition of land consisting of dwelling-houses which were not constructed as Government war works, and there are also provisions protecting the interests of the public in certain commons and open spaces.

The Commission, in considering the Minister's proposals under this Part of the Act, must have regard to all relevant considerations and view on the one hand national and local interests and requirements as to planning or amenities or otherwise, and on the other hand private interests affected. They are to recommend what is, in all the circumstances, reasonable. S. 11 contains detailed principles upon which the Commission must act in given circumstances.

Part III empowers the Minister of [War] Transport by order to authorise (a) the permanent stopping up or diversion of any highway which has been stopped or diverted in the exercise of emergency powers (s. 15), or (b) the retention of any railway, tramway, cable, wire, main or pipe placed along, across, over or under any highway in the exercise of emergency powers (s. 16). In each case the Minister must be satisfied that his action is in accordance with public interest.

Before making any order under this Part of the Act, the Minister must publish notice of his proposals and specify a period, being not less than 3 months from publication, within which objections must be made.

Upon receiving an objection, the Minister must, unless he decides not to proceed, refer the draft order to the Commission for a report and take no further proceedings pending receipt of the report. The Commission, after considering the proposals and hearing the objector or giving him an opportunity to be heard by their nominee, may report that the order can properly be made either as proposed or subject to such modifications as may be specified in the report or that no order ought to be made (s. 18 (1) (b)).

As a general rule the Minister must act in accordance with the Commission's report (s. 18 (4)), but he is given power in certain circumstances to override the Commission and proceed to make his order (s. 18 (2)), though in this event he must first lay before both Houses of Parliament a copy of the report and a statement of the reasons why he intends to proceed to make the order notwithstanding the report; and if either House resolves that the proposals are not to be proceeded with otherwise than in accordance with the report, the Minister must act accordingly (s. 18 (5)).

The Minister must publish notice of his order when made and opportunity is given to any person aggrieved to question its validity by application to the High Court within 6 weeks of publication of the notice. The Court may make an interim order suspending the operation of the Minister's order, and if they find that the order is *ultra vires* or that the interests of the applicant have been substantially prejudiced by non-compliance with any requirement of this Part of the Act, the Court may quash the order (s. 19).

Part IV deals with telegraph lines constructed by the Post Office under emergency powers, and provides that these lines shall be treated, as from the end of the war period or such earlier date as the Postmaster-General shall fix, as having been properly constructed under and in accordance with the Telegraph Acts, 1863 to 1943. This provision is to be without prejudice to any agreement regulating the Postmaster-General's exercise of his rights under the Telegraph Acts, and, further, the application of the Compensation (Defence) Act, 1939, is not to be affected thereby (s. 23).

A person whose consent is normally necessary under the Telegraph Acts may give the Postmaster-General written notice requiring him to remove the line not later than 3 months from the service thereof, and, unless he consents to the withdrawal of the notice, the Postmaster-General must remove the line, provided that he may, within the 3 months, serve a counter-notice requiring that person so to consent and thereafter a dispute is deemed to have arisen between him and the Postmaster-General, which must be dealt with under the Telegraph Act, 1878, ss. 3, 4 and 5, and the Telegraph (Construction) Act, 1916, s. 1. These provisions will apply subject to the necessary adaptations as if the difference were one arising under the 1878 Act, treating consent to the withdrawal of the notice in the same

way as a consent to the placing of telegraphs or posts or a line under the provisions referred to (s. 24).

This Part of the Act also contains special provisions as to compensation where a deep line has been laid under emergency powers. There is no obligation to remove or alter such a line, but, in appropriate circumstances, there is provision for payment of compensation for any diminution in value of the land containing the deep line. The amount and application of any such compensation is to be determined in accordance with s. 7 of the Telegraph Act, 1863, as amended (s. 25). This section provides that the amount and application of such compensation is to be determined in manner provided by the Land Clauses Consolidation Act, 1845, for which Act should now be read the Acquisition of Land (Assessment of Compensation) Act, 1919.

Part V empowers local authorities under a simplified procedure compulsorily to acquire certain land which, under Defence Regulations, they have been directed by Ministers to work on, or authorised to use. It should be pointed out that no new substantive power of acquisition is conferred by the Act, but rather the procedure of compulsory acquisition originally conferred by s. 161 of the Local Government Act, 1933, is made more widely available.

The Lord Chancellor said, in moving the second reading in the House of Lords on June 4, 1945 (136 H. of L. Official Report 352) :—

“What has happened during the war—probably only those closely interested in local government work are aware of it—is that we have used emergency powers to enable local authorities to occupy or use land for a purpose which in peacetime would only have been possible if they had bought under compulsory powers. I believe there is one case—there may be others—where houses for factory workers have been constructed on requisitioned land by a local authority.”

Land which may be acquired is land which the acquiring authority have been directed to do work on or authorised to use under Defence Regulations and which has been used for a purpose for which the acquiring authority are or can be authorised under any Act to acquire land compulsorily (s. 26 (1)).

The acquiring authority must exercise its powers under this Part and give notice to treat before the expiration of 2 years from the end of the war period (s. 26 (1) (proviso)).

The provisions of Part VII of the Local Government Act, 1933, relating to compulsory purchase orders as defined in s. 161 (1) of that Act, are, subject to certain modifications, to apply to a compulsory purchase under this Part of this Act (s. 27).

Part VI empowers a Minister to maintain and use Government war works for the purposes of the public service or for any purpose for which they were maintained and used in the exercise of emergency powers (s. 28 (1)). A Minister may also retain possession of any land notwithstanding the determination of any other right thereto and may use it for the purposes of the public service or in any manner in which it was being used before possession was retained. Once notice to treat has been given the Minister may authorise the use of the land by any person, in any manner, for any purpose, but if he does so he cannot withdraw the notice to treat (s. 28 (2)).

Where Government war work has been done on land or there has been some diminution in value caused by Government war use a Minister has power (a) to remove any works on, over or below the ground, (b) to do such work as he thinks fit for the purpose of restoring the land to its previous condition, and (c) in exercise of the above powers, to enter upon any land, subject to payment of compensation for damage done (s. 29).

In general, these powers are exercisable for the same period as the powers of acquisition given in Part II of the Act, viz., until the expiration of 2 years from the end of the war period (s. 30 (1)).

The exercise of these new powers will give the right to claim compensation, to disclaim leases and to treat land affected as requisitioned land for the purposes of the War Damage Act, 1943 (s. 31 (1)).

Part VII provides for the application of certain provisions of the Defence Acts to acquisitions under Part II of the Act, and it amends and modifies the provisions of the Defence Acts in relation both to acquisitions under Part II of this Act and also under the Defence Acts themselves.

In relation both to the acquisition of land under Part II of the Act, and to its holding, management, use and disposal, the provisions of the Defence Acts specified in the Schedule to this Act, *post*, are to have effect as if reference to the principal officers of Her Majesty's ordnance or to the Secretary of State for the War Department or to the ordnance department included references to the Minister of War Transport, the Postmaster-General and the Minister of Works and their respective departments. All these Ministers are to have, in the matters referred to, all the powers, rights and privileges of the Secretary of State for War under the Defence Acts which are there vested in him as respects land which he is given power to acquire under these Acts apart from Part II of this Act (s. 32 (1)).

The Defence Acts in relation to any of these Ministers are to have effect as if any acquisition by virtue of Part II were an acquisition under the Defence Acts for the purposes of that Minister's department or the defence of the realm (s. 32 (2)).

Other provisions of this Part of the Act deal with modifications which the Act makes in the Defence Acts. As regards acquisitions under Part II of this Act, modifications introduced are (a) a restriction on power of resale of acquired land free of incumbrances (s. 32 (3)), (b) a new power to acquire particular levels of land only (s. 34 (1)), (c) a new power to acquire reversionary interests (s. 34 (2)) and (d) dispensing with the necessity for a survey or marking out of land (s. 35 (1)) and the consents of the Lord Lieutenant or Treasury to the acquisition (s. 35 (2)). Modifications in the Defence Acts for acquisitions under those Acts and not under Part II of this Act are as in (b), (c) and (d), *supra*, and, in addition, a new power to acquire any easement over or right restrictive of the user of any land (s. 33 (1)). Two permanent modifications to the Defence Acts are made. S. 33 (2) provides that any power of a Minister to acquire land under the Defence Acts otherwise than by virtue of Part II of this Act are not to be affected by the fact that his office is temporary or that after the expiration of a certain period some other Minister may be the Minister concerned or that he can obtain or has obtained possession apart from those Acts. Ss. 36, 37 and 38 provide for new powers with respect to the acquisition by agreement and compulsorily of easements and other restrictive rights.

Part VIII deals with the compensation payable on the compulsory acquisition of land under the Act, and its provisions apply where (a) land is compulsorily acquired by a Minister, or (b) land is compulsorily acquired under Part V of the Act by a local authority, or (c) land in the possession, under emergency powers, of a Minister or person authorised by him is compulsorily acquired under any other Act by a local authority, or (d) land in the possession of a drainage board under emergency powers, is compulsorily acquired by that board.

The rules for the assessment of compensation in these cases are those contained in s. 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919, as further modified and varied by the provisions of this Part. Adjustments of compensation payable are to be made where the value of the land has been increased or diminished by reason of (a) any damage to it while in the possession of the Minister or person authorised by him, (b) any government war work done on the land, (c) any prohibition or restriction on the doing of work on the land. In other words, compensation is to be paid by reference to the value of the land before the erection of buildings or doing of work by the Government (s. 41). Further, account is also to be taken of any payment of or right to compensation under the Compensation (Defence) Act, 1939 (s. 42).

The rules for the assessment of compensation on the acquisition of easements or restrictive rights, or the discharge or modification of the latter, are, with slight adaptations, the same as on the acquisition of land (s. 41 (8)).

Part IX deals with compensation payable for the use or possession of land, or the doing of work thereon in the exercise of emergency powers (as distinct from compensation payable on the acquisition of land). The statutory provisions for payment of compensation in these cases are contained in the Compensation (Defence) Act, 1939, and this Part of the present Act introduces a number of amendments to those provisions.

Part X contains miscellaneous and general provisions. S. 51 preserves the effect of agreements made by Ministers with landowners for the use of their land for Government war works and excludes the operation of the 1945 Act where such agreements exist. S. 52 gives power to Ministers, in certain circumstances, to defray the cost of rehabilitating land damaged by Government war work or by Government

use. S. 53 gives Ministers power to provide other land in exchange for land acquired under the Defence Acts. S. 54 deals with the consequences of payment of money to a Minister in respect of value of works. Where possession of the land is retained under emergency powers, even after payment has been made, rental compensation will be paid therefor under s. 2 of the Compensation (Defence) Act, 1939. With the latter provision will also apply s. 17 of the War Damage Act, 1943 (providing that value payments in the case of requisitioned land are to be computed by reference to the state of the land before the requisition) as if, notwithstanding anything in the 1945 Act, a new period of requisition had begun on the date of the payment. S. 55 contains provisions designed to expedite the compulsory purchase of land by drainage boards. It is the equivalent, for those boards, of the procedure for local authorities in ss. 26 and 27 of the Act. [766]

ARRANGEMENT OF SECTIONS

PART I

THE WAR WORKS COMMISSION

Section	Page
1. The War Works Commission	243
2. Procedure of Commission	243
3. Dissolution of Commission	244

PART II

NEW TEMPORARY POWERS OF ACQUISITION OF LAND BY MINISTERS

4. Land affected by government war work or damage by government war use	244
5. Works	245
6. Depreciated land	247
7. Easements and other rights	247
8. Reference to Commission of proposals to acquire land or rights ..	248
9. Powers of Minister on receipt of report of Commission	251
10. Conditional recommendations by Commission	253
11. Principles on which Commission are to act	254
12. Overriding provision as to purchase of certain commons and open spaces	256
13. Agricultural land	257
14. Duration of powers under Part III	257

PART III

HIGHWAYS

15. Stopping up or diversion of highways	258
16. Retention of railway, tramway, etc., on highway where highway not stopped up or diverted	259
17. Publication of proposed orders and reference to Commission	260
18. Proceedings after reference to Commission	261
19. Validity and date of operation of orders under Part III	262
20. Duration of power to make orders	263
21. Temporary continuance of stopping up, etc.	263
22. Savings	264

PART IV

TELEGRAPHIC LINES

23. General provision as to telegraphic lines	264
24. Power of owners, etc., to require removal of telegraphic lines	265
25. Deep lines	265

PART V

NEW TEMPORARY PROCEDURE FOR ACQUISITION OF LAND BY LOCAL AUTHORITIES

26. Acquisition by local authorities	267
27. Provisions as to compulsory purchase orders	268

PART VI

TEMPORARY POWERS AS TO MAINTENANCE, USE AND REMOVAL OF
WORKS, ETC.

Section	Page
28. Maintenance and use of works and continuance in possession	269
29. Removal of works and restoration of land	270
30. Duration of powers under Part VI	271
31. Compensation and adaptation of enactments	272

PART VII

APPLICATION AND AMENDMENTS OF DEFENCE ACTS, ETC.

32. Application of Defence Acts to acquisitions by virtue of Part II ..	273
33. Modifications of Defence Acts in relation to acquisitions not by virtue of Part II	273
34. Power to acquire particular levels only and reversionary interests ..	274
35. Amendments as to procedure	274
36. Notice to treat to acquire easements or other rights	275
37. Method of compulsory acquisition of easements and rights	276
38. Miscellaneous provisions as to easements and rights acquired under Defence Acts	276
39. Compensation for acquisition of easements and rights	277

PART VIII

ADJUSTMENT OF COMPENSATION ON ACQUISITION OF LAND

40. Application of Part VIII	277
41. Elimination of value due to government war work, etc.	278
42. Adjustment where compensation paid or payable under Compensation (Defence) Act, 1939, or otherwise	280
43. Forfeitures	280
44. Repeal of certain provisions of Agriculture (Miscellaneous Provisions) Acts, 1941 and 1943	280

PART IX

AMENDMENTS OF COMPENSATION (DEFENCE) ACT, 1939

45. Increase in rental compensation under s. 2 of Compensation (Defence) Act, 1939	281
46. Effect on compensation of reservation of rights under Part VI	282
47. Compensation under s. 2 of Compensation (Defence) Act, 1939, for removal of fixed machinery or plant	282
48. Successive works to be dealt with as one	283
49. Lump sum compensation under s. 3 of Compensation (Defence) Act, 1939 ..	283
50. Definition of work done on land	284

PART X

MISCELLANEOUS AND GENERAL

51. Saving for agreements	284
52. Power of Ministers to defray cost of rehabilitation of land in certain circumstances	285
53. Provision of land in lieu of land acquired under Defence Acts	286
54. Consequences of undertakings to pay money under Part II	286
55. Amendment of procedure where land is purchased by a drainage board ..	287
56. Provisions as to Board of Trade	287
57. Expenses	288
58. Evidence	288
59. Interpretation, etc.	288
60. Application to Scotland	291
61. Application to Northern Ireland	294
62. Short title	295
SCHEDULE.—Enactments applied to certain Ministers	295

An Act to authorise the acquisition of certain land used or devt with for war purposes and to make other provision as to such land ; to remove doubts as to the powers of certain Ministers to acquire land under the Defence Act, 1842 ; to amend certain of the enactments relating to compensation in respect of land ; and for purposes connected with the matters aforesaid. [15th June, 1945.]

PART I

THE WAR WORKS COMMISSION

1. The War Works Commission.—(1) For the purpose of reporting on the matters and deciding the questions mentioned in the subsequent provisions of this Act, there shall be a Commission, to be called the War Works Commission (in this Act referred to as “the Commission”), consisting of a chairman and such number of other members as His Majesty may think expedient, to be appointed by His Majesty. [767]

(2) The appointment of a member of the Commission shall be for such term as may be determined by His Majesty before his appointment and shall be subject to such conditions as may be so determined. [768]

(3) A member of the Commission who ceases to hold office shall be eligible for re-appointment. [769]

(4) A person shall be disqualified for being appointed or being a member of the Commission so long as he is a member of the Commons House of Parliament. [770]

(5) The Commission shall appoint a secretary to the Commission, and may appoint such other officers and such servants of the Commission as the Commission may, with the consent of the Treasury, determine. [771]

(6) There shall be paid out of moneys provided by the Parliament of the United Kingdom—

(a) to the members, officers and servants of the Commission such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine ; and

(b) any expenses incurred by the Commission with the approval of the Treasury. [772]

Functions of Commission.—The Commission may have to report on proposals of any Minister under Part II of the Act, for which see ss. 8, 9, 10 and 11 *post*, and on proposals of the Minister of War Transport under Part III, for which see ss. 17 and 18, *post*. Note that under s. 10, *post*, the Commission may be called upon to assess the value of government war works.

Sub-s. (5).—While the Treasury will not appoint the Commission (see sub-s. (1), *supra*) they will control its personnel establishment, and also exercise general financial control (see next sub-s. (6)).

The War Works Commission.—The appointment of the War Works Commission was announced from 10, Downing Street on September 6, 1945.

“The King has appointed the following to be members :—

Sir Malcolm Trustram Eve, chairman, who will continue as chairman of the War Damage Commission ;

Sir George Etherton, formerly County Clerk of Lancashire ; a member of the War Damage Commission ;

Sir Basil Gibson, formerly Town Clerk of Sheffield ; a member of the War Damage Commission ;

Mr. W. P. Allen, General Secretary of the Associated Society of Locomotive Engineers and Firemen ; a member of the War Damage Commission ;

Mr. J. M. Erskine, General Manager of the Commercial Bank of Scotland, chairman of the Scottish Chamber of Commerce ;

Mr. D. M. Matheson, Retiring Secretary of the National Trust ; and

Mr. D. Hughes Parry, Professor of English Law, University of London”.

(*The Times*, September 6, 1945.)

2. Procedure of Commission.—(1) The Commission shall have power to act notwithstanding a vacancy among the members thereof. [773]

(2) At any meeting of the Commission three or such greater number as the Commission may determine shall be the quorum. [774]

(3) In considering any matters referred to them under the subsequent provisions of this Act, the Commission shall, subject to the provisions of this

Act, cause such inquiries to be made, and give to such persons such opportunities of making oral or written representations, as the Commission think fit, and may, if they think fit, cause a local inquiry to be held. [775]

(4) The provisions of subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the summoning of witnesses, the production of documents, and costs,) shall apply to any such local inquiry as they apply to a local inquiry held under that section, but as if for references to a department there were substituted references to the Commission :

Provided that—

- (a) no local authority shall be ordered to pay costs under subsection (4) of that section in the case of any inquiry unless it is a party to that inquiry ; and
- (b) for the purposes of subsection (5) of that section, the Minister making the proposals with respect to which the inquiry is being held shall be deemed to be a party to the inquiry and costs may be ordered to be paid to or by him accordingly. [776]

" *Such inquiries, etc., as the Commission think fit.*"—It is clear that the Commission will have an absolute discretion as to (a) their own inquiries ; (b) the making of representations to them ; and (c) the holding of a local inquiry. On the other hand, as a quasi-judicial body, which this and other sections make the Commission, it must act in good faith.

The following cases, on the construction of comparable expressions in other Acts relating to the powers of Ministers, indicate that the direction given is so " absolute " or unfettered as to preclude the Courts from interfering : *R. v. Comptroller General of Patents*, [1941] 2 All E. R. 877, per Scott, L.J., at p. 681 ; *Liversidge v. Anderson*, [1941] 3 All E. R. 338, per Lord Atkin, at pp. 353, 354 ; *Point of Ayr Collieries, Ltd. v. Lloyd-George*, [1943] 2 All E. R. 546 ; *Carltona, Ltd. v. Comrs. of Works*, [1943] 2 All E. R. 560, per Lord Greene, M.R., at p. 564.

The following cases indicate that the Courts would be entitled to intervene where it could be shown that the Minister or other authority had taken into consideration something which he was not entitled in law to consider : *R. v. St. Pancras Vestry* (1890), 24 Q. B. D. 371 ; *R. v. Board of Education*, [1910] 2 K. B. 165 ; *Roberts v. Hopwood*, [1925] A. C. 587, at p. 613 ; or had failed to consider something to which he was or they were legally bound to have regard ; *R. v. Cheshire J.J.* (1912), 77 J. P. 33 ; *Mersey Docks and Harbour Board v. Birkenhead Assessment Committee*, [1901] A. C. 175 ; *Roberts v. Cunningham* (1925), 134 L. T. 421.

Costs.—The effect of proviso (a) to sub-s. (2) is that no local authority can be ordered to pay costs in the case of any inquiry, unless it is a party to that inquiry.

Under proviso (b) the Minister, as defined by s. 59 (1), *post*, making the proposals with respect to which the inquiry is being held is to be deemed a party and as such may be ordered to pay, or can receive, costs. As the Financial Secretary to the Treasury stated on May 30, 1945 (411 H. of C. Official Report 246) :—" This new paragraph is moved to make it clear that the Commission will be able to award costs against the Minister who brings forward a proposal for acquisition where the Commission think that the costs should be paid by the Crown."

3. Dissolution of Commission.—If it appears to His Majesty that the Commission have dealt with all the matters which have been referred to them under this Act and that no further matters are likely to be referred to them thereunder, His Majesty may by Order in Council dissolve the Commission. [777]

" *Matters referred to them under this Act.*"—These will be matters arising out of the operation of Part II (new temporary powers of acquisition of land by Minister) and Part III (Highways). The Chancellor of the Exchequer on April 11, 1945, stated (409 H. of C. Official Report 1854) :—" The reason for putting in ' Order in Council ' when it comes to winding up the Commission is that that is a formal act, not concerned merely with putting an end to the appointment of particular individuals but bringing to an end the operations contemplated by the Bill as a whole. The more formal step of an Order in Council provides an instrument, which might be quoted in the courts, bringing the operations connected with the work of the Commission formally to an end."

PART II.

NEW TEMPORARY POWERS OF ACQUISITION OF LAND BY MINISTERS

4. Land affected by government war work or damaged by government war use.—(1) Subject to the provisions of this Part of this Act, any of the Ministers specified in subsection (2) of this section may, in the circumstances specified in the two next succeeding sections, acquire under the Defence Acts any land on which government war work has been done or which has been damaged by government war use. [778]

(2) The said Ministers are the Ministers who apart from this Part of this Act have power to acquire land under the Defence Acts, and the Minister of War Transport, the Postmaster General and the Minister of Works. [779]

Sub-s. (1): "The Ministers."—The term Minister is defined by s. 59 (1), *post*, but the reference here, and the application of Part II as a whole, is only to the Ministers specified in sub-s. (2), *infra*. As to the powers of maintenance, use, continuance in possession, removal of works, etc., of these, and all other Ministers, see Part VI, s. 28 *et seq.*, *post*.

"Government war work."—This is defined by s. 59 (1), *post*. For the Ministers' power of acquisition where there is such work, see s. 5, *post*. As to evidence of such war work, see s. 58, *post*.

"Government war use."—This is defined by s. 59 (1), *post*. For the Ministers' power of acquisition, where damage has been caused by such use, see s. 6, *post*. As to evidence of such war use, see s. 58, *post*.

Sub-s. (2): General note.—The Attorney General on May 2, 1945 (410 H. of C. Official Report 1473) gave the following reasons for the inclusion of the Minister of War Transport and Minister of Works among the Ministers given powers under Part II of the Act:—"Let me tell the Committee why we thought it right to add the Ministers of War Transport and Works to those Ministers who have power to acquire under the Defence Act. The reason is the simple one that they are the Ministers who have spent vast sums, either on requisitioned land or in doing work on non-requisitioned land, and it is this expenditure which has brought about the problem which has led to the introduction of the Bill. It would be foolish not to confer the power of acquisition on the Minister whose Department has spent the money, whose files are the relevant files to consult in seeing what money has been spent and all the rest of it, and whose officials have been dealing with the work which will, in cases where acquisition is sought, be the basis of the Crown case for acquisition."

The Minister of War Transport is ready to meet any challenge at any time on any topic connected with his Department, but I do not think this would be the right occasion for him to make a general statement as to his policy in exercising the powers under this Bill. The Ministry of War Transport have spent large sums of money in connection with docks, railway sidings, new harbours and the rest of it. Every case has to be considered on its own facts, but there may well be cases where the Minister will want power of acquisition so as to acquire the work in order to hand it over to the existing dock authority. Sidings may have been put down in the neighbourhood of a dock or harbour on requisitioned land, and he may want to acquire them in order to hand them over. The Ministry of Works have spent tens of millions of pounds on buildings such as factories, stores for food, hospitals, camps and so on. They have not merely been the requisitioning authority, as my hon. Friend thought; they have been the big constructing spending Department on behalf of all the other Ministers. The fact that the Minister of Works is in this clause, does not suggest that in every casewhere he has spent money the Government will say that it is a proper case for acquisition, but it would be foolish not to put the Minister who has spent tens of millions of pounds on buildings and works among the Ministers who can acquire, because it is in his Ministry that all the information and relevant facts exist."

"Ministers who have power to acquire land under the Defence Acts."—These are the Secretary of State for War (see Ordnance Board Transfer Act, 1855, transferring powers under the Defence Act, 1842, to the Secretary of State for War); the Admiralty (see Naval Works Act, 1895, s. 2; Naval Works Act, 1899; Naval Lands (Volunteers) Act, 1908); these made the powers of Secretary of State for War under the Defence Acts available to the Admiralty; the Secretary of State for Air (see S. R. & O., 1918, No. 538; 1923, No. 403 giving him all powers of Secretary of State for War); the Minister of Supply (see Ministry of Supply Act, 1939, s. 2 and Schedule); and the Minister of Aircraft Production (see the Minister of Aircraft Production (Transfer of Functions) Order, 1940, Article 3 and Schedule; S. R. & O., 1940, No. 762).

As to the acquisition being under the Defence Acts, see notes to s. 32, *post*.

Minister of War Transport.—By the Ministers of the Crown (Minister of War Transport) Order, 1941 (S. R. & O., 1941, No. 654), the Ministers of the Crown (Emergency Appointments) Act, 1939, was applied to the office of Minister of War Transport and there were transferred to the said Minister, in addition to any other functions assigned to him, all functions previously exercisable, whether under any enactment or otherwise, by the former Ministers of Transport and Shipping with the usual consequential provisions as to continuity of those functions, pending legal proceedings, etc.

The original functions of the Minister of War Transport in relation to electricity undertakings and the supply of electricity, including functions relating to the Electricity Commissioners, were transferred first to the Board of Trade and later to the Minister of Fuel and Power by the Ministers of the Crown (Minister of Fuel and Power) Order, 1942 (S. R. & O., 1942, No. 1132).

Postmaster General.—The powers of this Minister with respect to emergency telegraphic lines are set out in Part IV, s. 23, *post*.

Minister of Works.—This office and the Act establishing it in 1942 was originally called the Minister of Works and Planning. The titles were changed by the Minister of Town and Country Planning Act, 1943, to Minister of Works and Minister of Works Act, 1942. The latter provides for the transfer to the Minister of all functions exercisable by, and all property, rights and liabilities held or incurred by the Commissioners of Works and the Commissioners of Public Works in Northern Ireland. The latter own and maintain certain properties for Imperial Government purposes such as, e.g., the Belfast Custom House.

5. Works.—(1) Where there are government war works on the land, the power of acquisition shall be exercisable if those works were constructed wholly or partly at the expense of the Crown or some other person having

no interest or a limited interest in the land and, in the opinion of the Minister, either—

- (a) the value of the works ought, by the acquisition of the land, to be preserved either for the Crown or for the said other person, his legal personal representatives or his successor in the carrying on of a trade or business in connection with the carrying on of which he incurred the expense in question; or
- (b) the right to use the works (whether then or thereafter) ought, by the acquisition of the land, to be preserved or secured either for the Crown or for some other person having no interest or a limited interest in the land, and the case is not one where the land can be acquired under the Defence Acts apart from this Part of this Act; or
- (c) the right to determine the use to which the works are put (whether then or thereafter) ought, by the acquisition of the land, to be secured for the Crown, and the case is not one where the land can be acquired under the Defence Acts apart from this Part of this Act. [780]

(2) In any such case as aforesaid the power of acquisition shall extend not merely to the site of the works but also to any contiguous or adjacent land which, in the opinion of the Minister, must be held with the site of the works if the works are to be properly utilised and maintained. [781]

Sub-s. (1): "Government war works."—This expression is defined in s. 59 (1), *post*.

"Some other person having no interest, etc., in the land."—The Attorney General on April 12, 1945, stated (409 H. of C. Official Report 2068) that "The point we are seeking to deal with here (i.e., in s. 5 (1)) as was explained by my right hon. Friend the Financial Secretary, is that, under the pressure of war, those who were making munitions of one kind or another were urged to build or extend their factories. In some cases, they extended them on land which the Crown requisitioned for them, and in which they had no interest. In other cases, they put up substantial works on land in which they had some interest, but so short an interest that no prudent man would have put up works without negotiating for a greater interest. That is the problem, and my right hon. Friend fully appreciates it."

"Works."—While this clearly refers to "government war works," *supra*, the term "works" is itself also defined in s. 59 (1), *post*.

"Under the Defence Acts."—The enactments coming within the meaning of the term "the Defence Acts" are described in the definition thereof in s. 59 (1), *post*. Certain of these enactments, viz., those described in the Schedule, *post*, are applied to acquisitions of land by the Ministers named in s. 4, *supra*, by virtue of this Part of the Act.

Paragraphs (a) to (c) of sub-s. (1).—The Financial Secretary to the Treasury on April 12, 1945, thus explained the object of the concluding phrase in paragraphs (b) and (c), viz. "and the case is not one where the land can be acquired under the Defence Acts apart from this Part of this Act": "Sub-s. (1) (b) of this clause deals with the case where a Minister seeks to acquire land upon which war works have been constructed on the ground that he wants the right to use the works. Under the ordinary law, which operates in peace-time by the Defence Acts, dating from 1842 onwards, the Government have the right to acquire land for defence purposes, and all the time I have been in Parliament I have never heard anybody question the necessity of the right of the Government to decide what land it must possess for the safety of the country. We are putting the words into sub-s. (1) (b) which my hon. Friend proposes to omit with the sole purpose of preserving a clear line of demarcation between acquisitions which may be necessary for the defence of the country, and which can be carried out under the ordinary Defence Acts procedure which has operated for over 100 years, and the special and different class of case which is provided for in this Bill where war works have been constructed upon requisitioned land. These powers are of a very limited duration and character. Supposing land is acquired during the next few years under the Defence Acts for defence purposes, a claim might be raised that the land should have been acquired under this Bill, and that the procedure of the Commission in regard to the hearing of objections should have been followed. We must preserve a clear line of demarcation between the normal peace-time law and the special provisions, limited in duration, which are provided by this Bill." (409 H. of C. Official Report 2087.)

"... When I have explained the true purpose of the paragraph I think my hon. Friend will be reasonably satisfied. It is true that there may be some overlap between paragraphs (a) and (c). The opening words of the clause are:

'Where there are Government war works on the land'

and those words govern the clause. But there may be cases where it would not be possible to make out a case for acquisition under paragraph (a) on the ground that the value of the works ought to be preserved—the value of the works may be comparatively small—and the object of (c) is really connected with our war potential. I have one case in mind of land adjacent to an aircraft factory which produces fighter aircraft. There are Government war works on the land but they are not of very substantial value, and it will not be possible to make out a case for acquisition purely on the ground of value, but it is very vital to the continuance of the factory as part of our war potential that there should be an aerodrome there for testing aircraft, and that is a case where the right to determine the use to which the works

are put ought to be secured for the Crown. It is still the case, and has been throughout the war, that a good deal of our armaments is produced by private enterprise and not by the Crown. Hon. Members opposite have frequently argued that armaments production ought to be the monopoly of the State, but that is not the case, and on whether it ever will be I cannot express an opinion. The case I have in mind is where there could be no acquisition under the Defence Acts, because the aircraft industry is not conducted under the Crown, but it is necessary for our war potential that this property should be acquired in order that the factory can produce aircraft. I can think of other examples where certain forms of production are essential to the safety of the country. I suppose Radar is a very clear example. It is obviously necessary that factories which have been engaged on Radar production should not have their machinery removed in order that they may engage in the production of silk stockings. Therefore it is necessary for the President of the Board of Trade to be able to determine what the future use of these factories is to be, and that is the real purpose of paragraph (c)." (*ibid.* 2091).

Paragraphs (a) to (c).—The Chancellor of the Exchequer on April 12, 1945, thus explained the inter-relationship between these paragraphs: "The matter was made absolutely clear by the first illustration I gave, which was of factories all over the country erected for war purposes for which the Government will have no use in the future, the use of which they do not wish to control, and where the purpose of acquiring is to realise the value by disposing of them. That can only be dealt with under paragraph (a). May I just add this, which I hope will convince hon. Members who are still doubtful, that by acting under (a) the Government put themselves at a substantial disadvantage as compared with acting under (b) and (c) because under (a) the finding of the Commission is final and the Government have to accept it, whereas under (b) and (c) that is not the case." (409 H. of C. Official Report 2082.)

Sub-s. (2).—The object of this subsection is to enable the acquisition of, e.g., approach roads, car parks, stores or other outside buildings in order to make the whole a satisfactory factory site; in war-time these could be obtained by the government under compulsory powers.

6. Depreciated land.—(1) Whether there are government war works on the land or not, the power of acquisition shall be exercisable where the value of the land has been diminished by government war work done thereon or by damage caused by government war use thereof if, in the opinion of the Minister, it is desirable in the public interest that the land should be dealt with in a particular manner with a view to the total or partial rehabilitation thereof and the land is only likely to be dealt with in that manner if it is acquired by virtue of this Part of this Act. [782]

(2) In any such case as aforesaid, the power of acquisition shall extend not merely to the land the value of which has been diminished but also to any contiguous or adjacent land which, in the opinion of the Minister, must be held with the first-mentioned land if the first-mentioned land is to be properly dealt with. [783]

"Government war works"; "Government war use."—These terms are defined by s. 59 (1), *post*.

"In the opinion of the Minister."—See notes to s. 2 (3), *ante*, on the comparable expression there used, viz., "as the Commission think fit."

For the principles on which the Commission will act in considering proposals by a Minister in the exercise of powers given by this section, see s. 11 (3), *post*.

The alternative courses open to the Commission when such proposals are before them are (1) to approve them; (2) to disapprove them; (3) to disapprove on condition that a person they specify gives a written undertaking to rehabilitate the land as provided by s. 10 (2), *post*; in which latter case the Minister himself may undertake to make good to that person the whole or part of the expense incurred as provided by s. 52, *post*.

The powers conferred by this section are subject to s. 51 (Savings for Agreements), *post*.

7. Easements and other rights.—(1) Where a Minister has acquired or has power to acquire any land by virtue of this Part of this Act or would have power so to acquire any land if he did not already own it, he—

(a) may, under the Defence Acts, acquire any easement over or right restrictive of the user of any other land, being an easement or right which in his opinion is essential to the full enjoyment of the first-mentioned land; and

(b) may, if there are government war works anywhere on the first-mentioned land, by order discharge wholly or partly or modify any restriction as to the user of that land or as to building thereon arising by virtue of any contract if, in his opinion, the continued existence of the restriction, or, as the case may be, the continued existence thereof without modification, would prevent the retention of the works on the land or would prevent or impede the reasonable user of the works for public or private purposes. [784]

(2) Where—

- (a) there are government war works on any land constructed at the expense of the person who is the owner of that land and
- (b) a Minister would have had power to acquire that land under paragraph (b) of subsection (1) of section five of this Act if that person had had no interest or only a limited interest in the land,

the Minister shall have the like power to acquire any easement over or right restrictive of the user of any other land, being an easement or right which in his opinion is essential to the full enjoyment of the first-mentioned land, as he would have had under this section if he had had powers as aforesaid to acquire the first-mentioned land, and, on the transfer by the Minister of the easement or right acquired to any person having an interest in that land, the like consequences shall ensue as would have ensued if it had been conveyed to him direct by the persons from whom it was acquired by the Minister. [785]

(3) Any person having an interest in any land entitled to the benefit of a restriction discharged or modified under paragraph (b) of subsection (1) of this section shall, if the value of his interest is diminished by the discharge or modification of the restriction, be entitled to receive from the Minister compensation in respect of the diminution. [786]

(4) The Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by any subsequent enactment, shall with any necessary modifications, apply in relation to compensation under subsection (3) of this section as it applies in relation to compensation for the acquisition of a right over land. [787]

Sub-s. (1); General note.—The powers conferred by paragraph (a) of this subsection are not subject to s. 51 (Saving for Agreements), see s. 51 (4), *post*.

"A Minister."—See note to s. 4, *ante*.

Government war works.—See definition in s. 59 (1), *post*.

"Under the Defence Acts."—While there must be initially a power to acquire land by virtue of s. 4, *ante*, the actual acquisition of the easement, as indeed of the land after s. 4 has applied, will be under the Defence Acts; see notes to s. 5 (1) (b), *ante*, under this heading.

"Any easement."—This includes a right of support for land or buildings or works, and any right to withdraw the same, see s. 59 (3), *post*; see also *ibid.* (4), *post*.

"Right restrictive."—Includes a covenant to limit the growth of trees, etc.; see s. 59 (5), *post*.

"Essential to the full enjoyment of the land."—For a modification of this requirement in relation to trunk oil pipe lines constructed during the war, see s. 59 (4), *post*.

Sub-s. (2); Power to acquire under "s. 5 (1) (b)".—The condition precedent to the exercise of powers under this provision is that the works should have been constructed wholly or partly at the expense of the Crown or some other person having no interest or a limited interest in the land, see, *ante*.

Sub-s. (3).—This gives a right to compensation for diminution in value of the claimant's land by reason of the discharge or modification under sub-s. (1) (b), *supra*, of a restriction benefitting that land.

Sub-s. (4).—This applies the 1919 Act to the assessment of that compensation. The reference in the subsection to "as amended by any subsequent enactment" is a reference to the amendments made in the provisions of the 1919 Act by the Town and Country Planning Act, 1944, Part II, and, *semble*, by the present Act itself. For particular modifications therein made with respect to the assessment of compensation consequent upon the exercise of powers under the present section, see s. 41 (8), *post*.

8. Reference to Commission of proposals to acquire land or rights.—(1) Subject to the provisions of this section, before proceeding to acquire compulsorily by virtue of this Part of this Act any land or any easement over or right restrictive of the user of any land or to discharge or modify under this Part of this Act any restriction as to the user of any land or as to building thereon, the Minister shall publish, in the manner hereinafter specified, a notice of his proposals, specifying the grounds thereof and a time, not being less than three months from the date of the publication, within which written notice of objection to the carrying out of the proposals may be sent to the Minister.

The said notice shall be published as follows, that is to say, the Minister shall—

- (a) serve a copy thereof on any person to whom compensation under paragraph (a) of subsection (1) of section two or subsection (2) of section three of the Compensation (Defence) Act, 1939, is in course of payment in respect of the land and, where the land is registered land within the meaning of the Land Registration Act, 1925, on every person appearing from the register to be an owner or a lessee of the land ; and
- (b) serve a copy thereof on the local planning authority within whose area the land is situated ; and
- (c) cause to be published a copy thereof in such newspapers, if any, and in such other manner, if any, as appear to him to be appropriate,

and the Minister shall also cause to be deposited with the said local planning authority a map identifying the land, and the authority shall permit that map to be inspected at all reasonable hours without payment.

Any notice required to be served under this subsection may be served either—

- (i) by delivering it to the person on whom it is to be served ; or
- (ii) by leaving it at the usual or last known place of abode of that person ;
or
- (iii) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode ; or
- (iv) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office ; or
- (v) if it is not practicable after reasonable inquiry to ascertain the address of the person on whom it should be served, by addressing it to him and delivering it to some person on the land, or, if there is no person on the land to whom it can be delivered, by displaying it in a prominent position on the land. [788]

(2) If within the time so specified the Minister receives any objection in writing to the proposals or any of them, being an objection either—

- (a) by a person who appears to him to have an interest in the land ; or
- (b) in a case where it appears to him that the proposals will or may affect amenities enjoyed by the public, by the local planning authority, by any local authority or by a society or body having as its object or one of its objects the preservation of such amenities, being a society or body the character and membership of which is such that it is, in his opinion, proper that their views should be considered ; or
- (c) in a case where it appears to him that the proposals will or may affect the progress of scientific research, by a society or body having as its object or one of its objects the furtherance of scientific research, being a society or body the character and membership of which is such that it is, in his opinion, proper that their views should be considered,

then, unless he decides not to proceed with the proposals, he shall, not later than two months from the time so specified, refer the whole matter of the proposals to the Commission for a report, and shall not proceed to carry out the proposals until the Commission have reported to him thereon. [789]

(3) Before reporting to the Minister, the Commission shall, in the course of their inquiries, afford to any person who made any such objection as is

referred to in the last preceding subsection and has not been afforded an opportunity of appearing before and being heard by them, an opportunity of appearing before and being heard by a person appointed for the purpose by them, whether at a public local inquiry or otherwise. [790]

(4) Where objection to the proposals or any of them is made to the Commission on the ground that the proposals or any of them are not in accordance with national or local interests or requirements as to planning or amenities and the Commission, though not satisfied that the objection should be upheld, are of opinion that it is substantial, the Commission shall notify the Minister of Town and Country Planning accordingly and shall, before reporting to the Minister who made the proposals, consider any information or representations put before them by or on behalf of the Minister of Town and Country Planning. [791]

(5) Where the Board of Trade certify—

- (a) that the land which is to be acquired or for the benefit of which the easement or right is to be acquired or which is subject to the restriction to be discharged or modified, as the case may be, is or is part of industrial premises ; and
- (b) that those premises in substance owe their existing character, so far as the buildings and structures thereon are concerned, to government war work ; and
- (c) that in the interests of an orderly transition from war conditions to peace conditions it is expedient that the ability of the Crown to dispose of the premises, together with all necessary easements and other rights over and in relation to other land, should be established without delay,

and the Minister of Town and Country Planning certifies that the proposals are, in his opinion, consistent in all the circumstances with the proper use and development of land, the preceding provisions of this section shall have effect subject to the following modifications, that is to say, for the reference in subsection (1) thereof to a period of three months there shall be substituted a reference to a period of fourteen days, and subsection (4) thereof shall not apply :

Provided that this subsection shall not apply where the proposals are for the acquisition of land which includes the whole or any part of a common, open space or fuel or field garden allotment or is the property of any local authority.

In this subsection the expression “ industrial premises ” includes industrial premises in an incomplete state, and the expression “ buildings and structures ” shall be construed accordingly. [792]

(6) On receiving the report of the Commission, the Minister who made the proposals shall forthwith send a copy thereof to any person from whom he received any such objection as is specified in subsection (2) of this section and publish it in such other manner as appears to him appropriate. [793]

General note.—The requirements of this section apply only to compulsory acquisition under Part II, which gives powers with respect to land in ss. 4–6, *ante*, and with respect to easements and restrictive rights in s. 7, *ante*. Part II of the Act gives powers of acquisition “ under the Defence Acts,” which may be compulsory or by agreement, and the requirements of the present section do not apply where the acquisition is by agreement. The restriction prescribes the manner in which the Minister must make known his proposals under Part II, by service of notices on persons interested in the affected land and publication thereof in the press.

Sub-s. (1) : “ Not being less than three months.”—For reduction of this period to fourteen days when industrial premises are involved, see sub-s. (5), *infra*.

“ Compensation (Defence) Act, 1939, ss. 2 (1) (a) and 3 (2).”—The former section provides for the payment of rental compensation in respect of the taking possession of any land ; the latter for the payment in instalments of compensation for diminution in the value of land ascribable to the doing of work thereon.

“ Local planning authority.”—This term is defined by s. 59 (1), *post*, as meaning either the responsible authority under a town planning scheme, or the interim development authority within the meaning of the Town and Country Planning (Interim Development) Act, 1943.

Paragraphs (i)–(v) : Service of notices.—These provisions with respect to service of notices

by Ministers in connection with their proposals under Part II of the Act, are identical with those in respect to service of notices of draft orders involving the compulsory acquisition of land by the Minister of War Transport under Part III of the Act, see s. 17 (3), *post*. Apart from the contents of paragraph (v), these provisions are identical with those contained in the Town and Country Planning Act, 1944, s. 54. They are based on the provisions of the Public Health Act, 1936, s. 285. For constructive service, see s. 59 (7), *post*.

Sub-s. (2) (b).—A locus to make an objection is here given to the local planning authority (see note to sub-s. (1) (b), *supra*), the local authority (see definition in s. 59 (1), *post*), or a society or body whose views, in the Minister's opinion, should properly be considered. In each case it will exist, if, in the Minister's opinion, his proposals may or will affect amenities enjoyed by the public. It has been judicially stated that "amenity" appears to mean "pleasant circumstances, features, advantages" (per Scrutton, L.J., in *Re Ellis and Ruislip-Northwood U.D.C.*, [1920] 1 K. B. 343). Further it is necessary that there should be enjoyment thereof by the public, not, *semble*, only by private persons.

Sub-s. (2) (c).—This paragraph was inserted to meet the case of lands, subject to the present Act, that might possibly be of value and importance for research purposes by reason of the fauna and flora, etc., thereon. The bodies hereby given a locus would be, e.g., the Nature Reserve Investigation Committee, the Zoological Research Council.

General note on sub-s. (2).—The subsection gives a locus to object to proposals, provided the Minister so decides, to persons interested in the land and, if he also decides public amenities or scientific research are involved, to the planning authority and any society or body properly concerned. They must exercise their rights of objection within the three months of the publication of proposals (sub-s. (1), *supra*), and then the present subsection gives the Minister two months in which to decide either not to proceed or to proceed, in which latter event he must refer the whole matter of the proposals (i.e., including the written objections thereto received by him) to the Commission. Action on the Minister's part must await his receipt of the Commission's report.

"An opportunity of appearing".—The Commission may give an objector referred to in the foregoing subsection an opportunity of appearing before and being heard by the Commission itself. If they do not, they must give him an opportunity of appearing before and being heard by a person appointed by them. This latter hearing, at the Commission's discretion, may be either a public local inquiry, in which case, s. 2 (4), *ante*, incorporating the procedure for local government inquiries, will apply, or it may be a private or informal one.

General note to sub-s. (4).—The subsection requires the Commission to notify the Minister of Town and Country Planning and consider his information or representations before reporting to the Minister making the proposals. It will apply where (1) any objection is made to the Commission claiming the proposals are not in accordance with national or local interests or planning or amenity requirements and (2) the Commission are of opinion that objection is substantial. If the Commission are satisfied that this, or any other objection, should be upheld then logically they themselves must report against the proposals. For the exclusion of the provisions of this subsection in the case of industrial premises, see sub-s. (5), *supra*.

Sub-s. (5): "The Board of Trade".—While the Board is a Minister for the purposes of the Act generally, see s. 59 (1), *post*, it is not entitled to exercise powers of acquisition of land, etc., under Part II, see s. 4 (2), *ante*. The certificate of the Board, and that of the Minister of Town and Country Planning, here referred to will therefore be in respect of proposals by one of the Ministers entitled to exercise powers under Part II.

General note to sub-s. (5).—This subsection expedites the procedure of Part II for acquisition affecting industrial premises. Objections to proposals will have to be made within fourteen days and not three months, but the Minister making them will still have two months in which to decide whether to proceed and if so to refer his proposals to the Commission. The Minister must get the required certificates from both the Board of Trade and the Minister of Town and Country Planning, although sub-s. (4), *supra*, will not apply.

This expedited procedure cannot be used where any part of the land to be acquired is a common, open space, fuel or field garden allotment (for all of which see ss. 11 (5) and 12, *post*), or owned by a local authority. For definition of all these terms see s. 59 (1), *post*.

The position of the Minister of Town and Country Planning is preserved but in rather a different form. A preliminary certificate is required from him, and that makes unnecessary the provision made by sub-s. (4), *supra*. Common lands are excluded from the provisions of this sub-s. (5).

Sub-s. (6).—This requires the Minister making the proposals (a) to send a copy of the Commission's report, immediately on its receipt, to any objector; and (b) to publish the report in such other manner as he considers appropriate.

9. Powers of Minister on receipt of report of Commission.—(1) Subject to the provisions of subsections (5) and (6) of this section, where proposals involving the acquisition of land are referred to the Commission and the Commission report that the land or any part of it ought not to be acquired, the Minister may, if—

- (a) the ground, or one of the grounds, of the proposed acquisition was that the right to use or determine the use of works ought to be preserved or secured by the acquisition of the land; and
- (b) the land consists either of the site of the works or of land contiguous or adjacent thereto which was occupied with the site of the works for the whole or any part of the period after the construction thereof and, in the opinion of the Minister, must be held therewith if the works are to be properly utilised and maintained,

nevertheless proceed with the acquisition on that ground if he thinks fit to do so, but, save as aforesaid, the Minister shall not proceed with the acquisition of any land which the Commission report ought not to be acquired. [794]

(2) Subject to the provisions of subsections (5) and (6) of this section, where proposals involving the acquisition of any easement or right restrictive of the user of any land which, in the opinion of the Minister, is essential to the full enjoyment of other land are referred to the Commission, and the Commission report that the easement or right ought not to be acquired, the Minister may—

- (a) if the last-mentioned land is land which the Minister proposes to acquire on the ground that the right to use or determine the use of works thereon ought to be preserved or secured, or on that and other grounds, or is land which the Minister would have power to acquire on that ground but for the fact that he already owns it; or
- (b) if the easement or right is proposed to be acquired under subsection (2) of section seven of this Act,

nevertheless proceed with the acquisition of the easement or right on that ground, if he thinks fit to do so, but, save as aforesaid, the Minister shall not proceed with the acquisition of an easement or right which the Commission report ought not to be acquired. [795]

(3) Subject to the provisions of subsections (5) and (6) of this section, where proposals involving the discharge or modification of a restriction as to the user of land or as to building thereon are referred to the Commission and the Commission report that the restriction ought not to be discharged or modified, or ought not to be discharged or modified to the extent specified in the proposals, the Minister may, if in his opinion the discharge or modification of the restriction otherwise than in accordance with the report of the Commission, is necessary if government war works on the land are to be, or to be capable of being, put to the use to which in his opinion they ought to be, or to be capable of being, put, nevertheless proceed with the discharge or modification of the restriction if he thinks fit to do so, but, save as aforesaid, the Minister shall not proceed with the discharge or modification of any restriction except in accordance with the report of the Commission. [796]

(4) Where proposals involving the acquisition of land are referred to the Commission and the Commission report that the land or any part of it ought not to be acquired but that, in lieu of the acquisition of that land or that part of the land, an easement over or right restrictive of the user of that land or that part of that land can properly be acquired, the Minister may, if he thinks fit, acquire that easement or right as if the acquisition thereof had formed part of the proposals referred to the Commission. [797]

(5) Where the Commission report either—

- (a) that land consists of a dwelling-house; or
- (b) that land consists of the whole or part of a building occupied with, or garden or park of, a dwelling-house, and that it could not be severed from the dwelling-house without seriously affecting the amenity or convenience of the dwelling-house; or
- (c) that land which would be adversely affected by the acquisition of an easement or other right or by the discharge or modification of a restriction is a dwelling-house or the whole or part of a building occupied with, or garden or park of, a dwelling-house, and that the acquisition of the easement or right, or, as the case may be, the discharge or modification of the restriction, would seriously affect the amenity or convenience of the dwelling-house,

and further report that the land ought not to be acquired or, as the case may be, the easement or other right ought not to be acquired or the restriction discharged or modified, the Minister shall not proceed with the acquisition of the land, easement or right, or, as the case may be, with the discharge or modification of the restriction :

Provided that this subsection shall not apply in relation to any dwelling-house the construction of which was government war work. [798]

(6) Before proceeding with any proposals otherwise than in accordance with the report of the Commission, the Minister shall lay before both Houses of Parliament a copy of the report and a statement of the reasons why he intends to proceed to carry out the proposals notwithstanding the report, and if either House of Parliament within the period of forty days beginning with the date on which a copy of the report and the statement are laid before it resolves that the proposals shall not be proceeded with otherwise than in accordance with the report, the Minister shall not proceed with the proposals otherwise than in accordance with the report.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [799]

General note.—This section deals with the consequences of the Commission reporting unconditionally against proposals, and the courses then open to the Minister making them.

Sub-s. (1). "Acquisition of land."—This subsection deals with the acquisition of land under s. 5, *ante*. The power given here and in sub-ss. (2) and (3), *supra*, to the Minister to proceed in spite of the Commission's report against acquisition is expressed to be subject to sub-s. (5), *supra*, which denies this power where a dwelling-house, etc., is involved, and to sub-s. (6), *supra*, which obliges the Minister to refer the matter to Parliament.

Sub-s. 1 (a).—This refers to the exercise of powers under s. 5 (1) (b), *ante*.

Sub-s. (1) (b).—The power will only exist if the land is the site of the works, or is occupied with the works and, in the Minister's opinion, should be held therewith.

The Financial Secretary to the Treasury on May 30, 1945 (411 H. of C. Official Report 275) explained the object of this paragraph as follows :—"This paragraph, although it appears a little complicated, is designed to meet a point about which some of my hon. Friends have been concerned. It relates to the acquisition not of the war works but of land which is contiguous or adjacent thereto. The effect of the paragraph is that it will make the decision of the Commission final in cases where there is a proposal to acquire contiguous or adjacent land, if that contiguous or adjacent land has not been occupied with war works during the war period. It will allay the fear that new areas of land not used with the war works during the war periods may be acquired by the Government under their powers of acquiring contiguous or adjacent land, but that the Commission might report against such a proposal and that the Minister might then ask for an affirmative resolution to override the Commission."

"Acquisition of any easement or right."—Sub-s. (2) deals with the acquisition of any easement or right under s. 7, *ante*. Paragraph (a) refers to the exercise of powers under s. 5 (1) (b), *ante*, in respect of the land benefited by the easement or right, and paragraph (b) refers to the exercise of powers under s. 7 (2), *ante*. See also definition of easement in s. 59 (3), *post*, and of restrictive right in s. 59 (5), *post*.

"Discharge or modification of a restriction."—This restriction refers to the exercise of powers under s. 7 (1) (b), *ante*.

Sub-s. (4).—The Commission may therefore report against the acquisition of the land, but suggest in lieu the acquisition of an easement or restrictive right over the land. The Minister may adopt this suggestion as part of his original proposals. The exception contained in this subsection is not subject to the provisions regarding dwelling-houses and sub-missions to Parliament.

Sub-s. (5). "Dwelling-house."—This is defined by s. 59 (1), *post*.

The protection here given to a dwelling-house will override all the exceptions contained in sub-ss. (1)–(3), *supra*, which are subject to it and to the next subsection. For the Commission's consideration of proposals affecting a dwelling-house, see s. 11 (4), *post*.

Sub-s. (6). "Any proposals."—It is therefore necessary for a Minister to submit to Parliament all proposals which, under sub-ss. (1)–(3), *supra*, he is entitled to proceed with, notwithstanding the Commission's report against. Either House can resolve that, in spite of the legal powers given the Minister in sub-ss. (1)–(3), the Minister shall not in fact proceed otherwise than in accordance with the Commission's report. The onus here is on Parliament to resolve that the proposals shall not be proceeded with.

10. Conditional recommendations by Commission.—(1) Where land is proposed to be acquired on the ground that the value of works ought to be preserved, the Commission may, if they think fit, report that all or any part of the land ought not to be acquired if, within a time specified in the report, any person interested in the land pays to the Minister in respect of the value of the works a sum specified in the report or, if the report so provides, a sum determined by arbitration under terms of reference so specified :

Provided that the right of any person interested in the land to pay a sum determined by arbitration as aforesaid shall not be exercisable unless, within such time as may be specified in the report, he gives notice in writing to the Minister that he requires that amount to be determined by arbitration.

The arbitrator in any such arbitration shall be such one of the official arbitrators under the Acquisition of Land (Assessment of Compensation) Act, 1919, as may be selected by the Reference Committee under that Act on the written application either of the Minister or of the person who applied for the arbitration, and there shall be payable in respect of the application to the Reference Committee and in respect of any such hearing such fees as the Treasury may prescribe, but, subject as aforesaid, the Arbitration Acts, 1889 to 1934, shall apply to the arbitration. [800]

(2) Where land is proposed to be acquired on the ground that it is desirable in the public interest that the whole or some part thereof should be dealt with in a particular manner with a view to the total or partial rehabilitation thereof, the Commission may, if they think fit, report that the land ought not to be acquired if such person as may be specified in the report undertakes in writing to the Minister within a time so specified that he will take steps so specified within times so specified for the total or partial rehabilitation of the land or that part of the land, as the case may be :

Provided that the Commission shall not specify a person under this subsection as a person to give an undertaking unless they are satisfied that he has sufficient rights in the land and in any other relevant land to enable him to carry out his undertaking. [801]

(3) Where any such report as aforesaid is made and the condition specified in the report is satisfied, the report shall be treated for the purposes of the last preceding section as if it were a report that the land ought not to be acquired, but in any other case the report shall be treated as a report that the land can properly be acquired :

Provided that where such an undertaking as is mentioned in the last preceding subsection is given but is not carried out, the Minister may then proceed with the acquisition of the land. [802]

Sub-s. (1). "*Pays . . . in respect of the value of the works*".—Where such a payment is made as provided in this subsection, and nevertheless possession of the land is retained after the date of payment, s. 54, *post*, applies. A new period of requisition will be deemed to have begun on the date of payment and the Compensation (Defence) Act, 1939, s. 2 (which relates to compensation for the requisition of land), and the War Damage Act, 1943, s. 17 (which provides that value payments in the case of requisitioned land are to be computed by reference to the state of the land before the requisition), will have effect accordingly. S. 41 (3), *post*, entitles account to be taken of increase of value attributable to the works, in assessing compensation. Further, after payment has been made the Minister loses his rights to remove works and restore the land under s. 20 (1), *post*. See *ibid.*, proviso (1).

Sub-s. (2).—Where an undertaking to rehabilitate land is given as provided in this subsection, s. 52, *post*, will apply ; and, accordingly, the Minister has power under that section to defray the cost of rehabilitation in excess of the sum paid or payable in respect of making good damage under the Compensation (Defence) Act, 1939, s. 2 (1) (b).

Where such an undertaking is not carried out the Minister may proceed to acquire the land (see sub-s. (3), proviso, *supra*), and the usual limitation, on the exercise of a Minister's right to acquire land, to the period of his possession will not apply ; see s. 14 (2), proviso.

Sub-s. (3).—In either of the above forms of conditional recommendations, i.e., payment for value of works or undertaking to rehabilitate land, where the condition is satisfied, the Commission's Report shall be treated as a report against proposals ; where it is not so satisfied, the report shall be treated as a report for proposals, i.e., that the land can be acquired or, etc.

11. Principles on which Commission are to act.—(1) The Commission, in considering any proposals referred to them, shall have regard to all relevant considerations and shall recommend what in their opinion in view of the national and local interests and requirements (whether as to planning or amenities or otherwise) and the private interests affected is in all the circumstances reasonable. [803]

(2) In considering proposals for the acquisition of land on the ground that the value of works ought to be preserved, the Commission shall have particular regard to—

- (a) the cost of the works ;
- (b) the financial advantage, if any, which would accrue to any objector if the land were not acquired ; and
- (c) the degree of loss or hardship which any objector would sustain if the land were acquired. [804]

(3) In considering proposals for the acquisition of land on the ground that it is desirable in the public interest that the whole or some part thereof should be dealt with in a particular manner with a view to the total or partial rehabilitation thereof, the Commission shall have particular regard to—

- (a) the practicability or otherwise of restoring the land to the condition in which it was before the government war work thereon was done or, as the case may be, the damage caused by the government war use thereof was caused, and the cost of the restoration, if it is practicable ;
- (b) the desirability or otherwise of dealing with the land or, as the case may be, the part of the land, otherwise than by restoring it, and in particular any question which arises as to amenities enjoyed or to be enjoyed by members of the public ; and
- (c) the degree of loss or hardship which any objector would sustain if the land were acquired. [805]

(4) In considering proposals involving the acquisition of a dwelling-house, or the whole or part of a building occupied with, or park or garden of, a dwelling-house, or any easement over or right restrictive of the user of a dwelling-house or a building occupied therewith or the garden or park thereof, or involving the discharge or modification of any restriction enuring for the benefit of land which includes a dwelling-house, the Commission shall consider the nature and extent of the interest which any objector has in the dwelling-house and (notwithstanding anything in the preceding provisions of this section) if they are of opinion that his interest in the dwelling-house is, in all the circumstances, to be considered as a substantial one, shall report that the carrying out of the proposals (so far as they relate to the said matters) ought not to be proceeded with unless, in their opinion, either—

- (a) the carrying out of the proposals (so far as they relate to the said matters) is necessary in order to preserve something which is of substantial value to the community ; or
- (b) in the case of the acquisition of the whole or a part of a building occupied with a dwelling-house or of a garden or park, or an easement over or right restrictive of the user of a dwelling-house, building occupied with a dwelling-house, garden or park, or of the discharge or modification of a restriction, the proposals can be carried out without seriously affecting the amenity or convenience of the dwelling-house :

Provided that this subsection shall not apply in relation to any dwelling-house the construction of which was government war work. [806]

(5) Where the proposals are for the acquisition of any land under section five of this Act and—

- (a) the land to be acquired consists of or includes the whole or any part of a common, open space or fuel or field garden allotment ; and
- (b) the Commission are of opinion that the works in question are not both substantial and permanent in their nature,

the Commission shall, notwithstanding anything in the preceding provisions of this section, report that the proposals, so far as they relate to land consisting of or forming part of the common, open space or fuel or field garden allotment, shall not be proceeded with. [807]

Sub-s. (1). “*In considering any proposals*”.—I.e., any proposals by any Minister under Part II of the Act. While the Commission have to consider proposals under Part III (Highways), the remaining subsections deal solely with proposals under Part II, and, *semble*, so too does this subsection.

“*National and local interests and requirements*”.—It is clear that the Commission will not be limited to viewing only local town or country planning matters, but may include matters of national planning, e.g., proper distribution of industry, strategic considerations, etc.

Sub-s. (2).—This refers to acquisition under s. 5 (1) (a), *ante*. “Works” are defined by s. 59 (1), *post*.

The Financial Secretary to the Treasury on April 19, 1945 (410 H. of C. Official Report 505) made the following observation on this, and the following subsection:—“I think that when I have explained this matter my hon. Friend will see the point of the inclusion of the word ‘financial’ in this subsection. This clause (i.e., s. 11) states the principles upon which the Commission are to act, and subsection (1), as amended on the motion of the Attorney-General, now sets forth very clearly the general considerations, including the amenity and planning considerations, to which the Commission have to have regard. Sub-ss. (2) and (3) deal with two particular cases. Sub-s. (2) deals with acquisition on the ground of preservation of value and sub-s. (3) deals with acquisition for the purposes of rehabilitation. Each of these subsections sets out a certain number of considerations which must be borne in mind by the Commission in considering either of these two classes of case. Sub-s. (2), in particular, is a case where the ground of acquisition is the preservation of value and, there, the Commission have to consider not only the general considerations laid down in sub-s. (1)—amenity, planning, and so forth—but also have to consider the financial consequences of their retention. They have to consider under sub-s. (2) (a) the cost of the works and under (2) (b) the financial advantages which would accrue to the objector if the land were not acquired—that is to say, the extent to which the landlord would benefit if, at the termination of requisitioning, the Government war works fell into his lap without any payment on his part—and, under (2) (c) they have to consider the degree of loss or hardship which any objector would sustain if the land were acquired. The words in (2) (c), ‘loss or hardship,’ include the sort of personal considerations which some of my hon. Friends have mentioned once or twice in the course of our Debates—for instance, where there is a small man who has a personal attachment to the premises where perhaps he and his forebears have carried on business for a number of years. It seems quite right, in considering the case for acquisition on the grounds of preserving value, that the Commission should have special regard to financial considerations, and for that reason I think the word ‘financial’ qualifying the word ‘advantage’ in (2) (b) is apt for the purpose we have in mind.”

Sub-s. (3).—This refers to acquisitions under s. 6 (1), *ante*.

Sub-s. (4).—This subsection sets out the principles on which the Commission are to consider proposals involving the acquisition of a dwelling-house, etc. If the Commission, after so considering, report against the proposals then s. 9 (5), *ante*, will apply, and again, except where the dwelling-house is one whose construction was government war work as defined by s. 59 (1), the proposals shall not be proceeded with.

“*Dwelling-house*”.—This is defined by s. 59 (1), but see also exception *re* government war work in the proviso to this subsection.

“*Notwithstanding anything in the preceding provisions of this section*”. Here, as in s. 9 (5), *ante*, the provisions as to dwelling-houses override all others.

Sub-s. (5).—This deals with acquisitions, on the ground of there being government war works thereon (i.e. s. 5), of land embracing or including a common, open space or fuel or field garden allotment, and requires the Commission to report against proposals for such acquisitions, if they are of opinion that the works are not both substantial and permanent in their nature. The next section, s. 12, deals with acquisition, on the grounds either of there being government war works thereon (i.e., s. 5) or of its being damaged by government war use, of land embracing or including a common or open space, and requires the Minister to obtain a positive resolution from each House of Parliament before proceeding with his proposals.

12. Overriding provision as to purchase of certain commons and open spaces.—Where proposals for the acquisition of land under this Part of this Act include proposals for the acquisition of land which consists of or includes the whole or any part of a common or open space, the Minister shall not, in pursuance of those proposals, acquire, or serve notice to treat for the acquisition of, any part of that common or open space unless each House of Parliament resolves that the proposals, so far as they relate to that common or open space, ought to be proceeded with:

Provided that this section shall not apply where the Minister of Agriculture and Fisheries, in the case of a common, or the Minister of Town and Country Planning, in the case of an open space not being a common, certifies that other land, not being less in area and being equally advantageous to the public, is to be provided in lieu of the common or open space or part of a common or open space which is proposed to be acquired. [808]

General note.—This section provides the third and final protective provision with respect to any common or open space. The other two are the particular obligation of the Commission to report against, see s. 11 (5), *supra*, and the general obligation of reference to Parliament, see s. 9 (6), *ante*.

Where the Ministers referred to certify the intention to provide land, not less in area and equally advantageous to the public, in lieu of the common or open space, or part of either, to

be acquired, then this section will not apply. The other protective sections referred to, *supra*, will continue to apply. As to certificates of Ministers, see s. 58, *post*. As to provision by Ministers of land in lieu of that to be acquired under the *Defence Acts*, see s. 53, *post*; special protection is given in respect of a common, to which the public have rights of access, or open space, if on the land originally to be acquired, by s. 53 (1) proviso, and in respect of any common, open space or fuel or field garden allotment, if on the substituted land by s. 53 (2). "*Common*"; "*open space*."—These terms are defined by s. 59 (1), *post*.

13. Agricultural land.—In considering whether the conditions necessary for the exercise of any powers exercisable by virtue of this Part of this Act are fulfilled, any work done on any land possession of which has been taken for agricultural purposes by the Minister of Agriculture and Fisheries or by the War Agricultural Executive Committee as defined by section thirty of the Agriculture (Miscellaneous War Provisions) Act, 1940, being work done in the course of the cultivation of that land or work done wholly or mainly for the improvement of that land for agricultural purposes, shall not be treated as government war work. [809]

This section is an exception to the provisions of Part II of the Act generally, and those of s. 5, *ante*, in particular. Work of agricultural improvement of the kind here mentioned will not *per se* entitle the Minister to acquire the land improved under the present Act. He can acquire the land by virtue of, *inter alia*, the Agriculture (Miscellaneous Provisions) Act, 1941, s. 9, which is the equivalent for agricultural land of Part II of the present Act. Evidence of possession being taken for agricultural purposes will be by way of certificate of the Minister; see s. 58, *post*.

14. Duration of powers under Part II.—(1) The powers conferred by this Part of this Act shall only be exercisable if the relevant agreement to buy, notice to treat or order has been made or served before the expiration of two years from the end of the war period, or if notice of proposals for the exercise of those powers has been published in accordance with the provisions of this Part of this Act before the expiration of two years from the end of the war period. [810]

(2) Without prejudice to the provisions of subsection (1) of this section, any right to acquire land by virtue of this Part of this Act which arises by reason of anything done on land while in the possession of a Minister or of a person who is occupying or using it under the authority of a Minister shall not be available when the land on which the thing was done is no longer in the possession of any Minister or any such person:

Provided that this subsection shall not apply where an undertaking given under this Part of this Act to take steps for the rehabilitation of land is not carried out. [811]

(3) Notwithstanding anything in the preceding provisions of this section, the power to discharge or modify any restriction as to the user of land or as to building thereon may, where the land is being acquired by virtue of this Part of this Act, be exercised at any time so long as notice of proposals in that behalf is published in accordance with the provisions of this Part of this Act, or the order is made, before the completion of the acquisition of the land. [812]

Sub-s. (1). "*Agreement to buy, notice to treat or order.*"—S. 4, *ante*, and s. 32, *post*, provide that acquisitions of land by virtue of Part II of the present Act, shall be under the Defence Acts and/or as if they were under the Defence Acts. Acquisitions of land or easements or restrictive rights may therefore be either by agreement or compulsory, in which latter case there would be a notice to treat. The reference to an order is to the exercise by a Minister of his powers under s. 7 (1) (b), *ante*, which provide that he may "by order discharge . . . or modify any restriction as to the user of . . . land or as to building thereon."

"*Before the expiration of two years from the end of the war period.*"—S. 59 (1) defines "war period" as meaning the period during which the Emergency Powers (Defence) Act, 1939, is in force. This period has been extended by the Supplies and Services (Transitional Powers) Act, 1945, s. 5 (5), to include any period after the expiry of the Emergency Powers (Defence) Act, 1939, during which that Act is in force. The Act is, by section 8 thereof, to continue in force for 5 years from the date on which it was passed, namely, Dec. 10, 1945, though it may be continued beyond that period. The Emergency Powers (Defence) Act, 1939, expired on Feb. 24, 1946. Generally, the powers exercisable by virtue of other parts of this Act must be exercised within the same period as the powers under Part II.

Sub-s. (2).—Evidence as to the periods for which any land was in the possession of any Minister and as to anything then done thereon will be by means of a certificate of the Minister under s. 58, *post*.

This provision, further restricting the time within which the powers of acquisition of land, etc., under Part II must be exercised, will not apply where a person gives an undertaking, under s. 10 (2), *ante*, to the Minister to rehabilitate land and fails to carry it out. In such case the Minister's right to acquire on his original proposals, which were suspended by the Commission's report inviting the giving of the undertaking, will be revived.

Sub-s. (3).—This is an overriding provision not subject to the above provisions. It deals with the exercise of powers by a Minister under s. 7 (1) (b), *ante*, to discharge restrictions on land on which there are government war works, by the means of an order to that effect. In cases where the Minister is simultaneously acquiring the land under s. 5 or s. 6, *ante*, and discharging the restriction under s. 7 (1) (b), these powers may be exercised at any time, provided (i) notice of proposals is published in accordance with the provisions of s. 8 (1), *ante*; or (ii) the order is made before the completion of the acquisition of the land.

PART III

HIGHWAYS

15. Stopping up or diversion of highways.—(1) Subject to the provisions of this Part of this Act and in particular to the provisions thereof relating to the publication of proposals and reference thereof to the Commission, where any highway has been stopped up or diverted in the exercise of emergency powers, the Minister of War Transport may, if he is satisfied that in the public interest it is necessary or expedient so to do, by order authorise the permanent stopping up or diversion of the highway. [813]

(2) An order under this section may provide for all or any of the following matters, that is to say,—

- (a) for requiring, as a substitute for any highway stopped up under the order, the provision or improvement of another highway or other highways;
- (b) for directing that any highway to be provided or improved, or any highway provided or improved before the making of the order, as a substitute for any highway stopped up under the order, shall be repairable by the inhabitants at large, and for specifying the authority which is to be the highway authority therefor;
- (c) for directing that any highway to be provided or improved, or any highway provided or improved before the making of the order, as a substitute for a trunk road stopped up under the order shall itself be a trunk road for all or any of the purposes of the Trunk Roads Act, 1936;
- (d) for the retention or removal of any cables, wires, mains or pipes placed along, across, over or under the stopped up or diverted highway, and for the extinction, modification or preservation of any rights as to the use or maintenance of those cables, wires, mains or pipes;
- (e) if any highway other than the original highway is to be or has been provided or improved, or if the original highway is to be permanently diverted, for authorising or requiring the provision of cables, wires, mains or pipes laid along, across, over or under the said other highway, or, as the case may be, the highway as diverted, in lieu of any cables, wires, mains or pipes removed from the original highway, and for conferring rights as to the use or maintenance of cables, wires, mains or pipes so provided;
- (f) for requiring, out of moneys provided by Parliament or by specified authorities or persons—
 - (i) the payment of, or the making of contributions in respect of, the cost of doing any work required to be done by the order or any increased expenditure to be incurred which is ascribable to the doing of any such work or to the provision or improvement, before the making of the order, of any highway as a substitute for any highway stopped up under the order; or

- (ii) the repayment of, or the making of contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section one or section two of the Restriction of Ribbon Development Act, 1935, as respects any highway stopped up or diverted under the order. [814]

(3) An order under this section may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order, including provisions authorising the compulsory acquisition of land. [815]

General note on Part III of the Act.—The Parliamentary Secretary to the Minister of War Transport on May 2, 1945 (410 H. of C. Official Report 1504) made the following statement on the general intention of his Ministry with respect to the reopening of roads:—"I think I ought to say a word about the policy which my Ministry intend to pursue in the matter of reopening roads, and I want to give the fullest assurance to my hon. Friends that we are quite as anxious as they are to open roads, footpaths, bridle paths or any other form of roads. Although the war is not over, we have begun the process of reopening roads. Altogether we have stopped up something over 5,000 and the last figure I have, which is about a month old, showed that we have already reopened about 470—getting on for 10 per cent. I think that is an earnest of good intention. Of course we mean to do it if we can; of course we intend to provide an adequate or a better substitute for any road which has to remain stopped up, if that is needed; of course we are fully conscious of the fact that all the traffic problems of the island will be very greatly increased after the war. The roads have to be better than they were before, not less good, and we have not the slightest desire to shirk that, but there is the case when, in fact, there are alternative roads and when it is not necessary to make a new one."

Sub-s. (1). "*Provision . . . relating to the publication of proposals.*"—See sub-s. (1)–(3) of s. 17, *post*, which are the equivalent for this Part, Part III of the Act, to s. 8 (1), *ante*, for Part II of the Act.

"*Reference thereof to the Commission.*"—See sub-s. (4) of s. 17, *post*, which is the equivalent for Part III of s. 8 (2), *ante*, for Part II.

"*Is satisfied that in the public interest, etc.*"—See notes to s. 2 (3), *ante*, under the heading "as the Commission think fit." This expression and the words that follow prescribe the grounds upon which the Minister of War Transport can exercise powers under this Part of the Act. The expression is repeated, without any additional words in s. 16 (1), *infra*, in regard to powers to retain a railway, tramway, etc. It is the equivalent for Part III of the Act of the provisions of s. 5 (1) and 6 (1) for Part II.

"*By order.*"—Action by the Minister under Part III ultimately takes the form of an order. The Minister makes his proposals (also called draft order, see s. 18 (1), *post*); publishes them (or it) as provided by s. 17 (1), (2) and (3), *post*; if written objections are received within the prescribed time they (or it) are referred to the Commission as provided by s. 17 (4), *post*; the Commission consider and report thereon as provided by s. 18 (1), (2) and (3), *post*; the Minister must proceed in accordance with their report (s. 18 (4)) or else submit the matter to Parliament; either House can then resolve that the Minister does not proceed contrary to the report (s. 18 (5)). The order may contain such provisions as are set out in sub-s. (3), *supra*, and consequential, etc., provisions, including those authorising the compulsory acquisition of land, as stated in sub-s. (3), *supra*. When made the order must again be published in the same way as its original draft (s. 19 (1), *post*); it may be challenged within six weeks in the High Court (s. 19 (2), *post*); thereafter it shall not be questioned and becomes operative (s. 19 (3), *post*).

Sub-s. (2) (f). "*Doing any work.*"—See s. 59 (2).

S. 1 or s. 2. "*Restriction of Ribbon Development Act, 1935.*"—S. 1 empowers the highway authority to adopt a standard width in respect of any road, and s. 2 automatically imposes restrictions in respect of classified roads which the authority may apply to other non-classified roads. Both sections prohibit without the consent of the authority the construction of a means of access to the road and the erection of any building (or in the case of s. 1 the making of excavations or works) within a specified distance of the middle of the said road. S. 9 of the Act gives a right to compensation for injurious affection by reason of these restrictions under ss. 1 and 2, and for this purpose it applies the Acquisition of Land (Assessment of Compensation) Act, 1919.

16. Retention of railway, tramway, &c., on highway where highway not stopped up or diverted.—(1) Subject to the provisions of this Part of this Act, where, in the exercise of emergency powers or, for war purposes, by agreement or otherwise, any railway or tramway or any cable, wire, main or pipe has been placed along, across, over or under any highway, the Minister of War Transport may, if he is satisfied that in the public interest it is necessary or expedient so to do, by order authorise the railway, tramway, cable, wire, main or pipe to be used and maintained along, across, over or under the highway, unless and until other provision in that behalf is made by or under any Act (whether public general or local), subject, however, to such conditions and limitations, if any, as may be specified in the order. [816]

(2) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order. [817]

This section deals with the permanent retention of a railway ; as to temporary retention thereof, see s. 21 (2), *post*.

Sub-s. (1). "*Subject to the provisions.*"—This refers to ss. 17–20, *post*.

"*In the exercise of emergency powers.*"—These are defined by s. 59 (1), *post*.

"*Or, for war purposes, by agreement or otherwise.*"—This is a second alternative condition precedent to the application of the section, which is not found in s. 15, *supra*. Note that if emergency powers were not used, but other powers or an agreement made, the purposes of the laying of the railway, etc., must have been "war purposes," which are defined by s. 59 (1) as meaning "any purposes connected with any war in which His Majesty is engaged during the war period, whether or not at the relevant time that war had begun." These now include the purposes specified in the Supplies and Services (Transitional Powers) Act, 1945, s. 1 (1) (see *ibid.*, s. 5 (5)).

Sub-s. (2).—This is comparable to sub-s. (3) of s. 15, *supra*, but does not expressly empower the inclusion of provisions authorising the compulsory acquisition of land.

17. Publication of proposed orders and reference to Commission.—(1) Before making any order under this Part of this Act, the Minister shall publish his proposals by causing notice thereof—

- (a) to be advertised in two or more newspapers circulating in the locality in which the highways to which the proposals relate are or will be situated ; and
- (b) to be sent to every local authority in whose area any such highway as aforesaid is or will be situated and to any water, gas or electricity undertakers having any cables, wires, mains or pipes laid along, across, over or under any such highway as aforesaid ; and
- (c) to be displayed in a prominent position at the end of so much of any highway as is proposed to be stopped up or diverted under the order ; and
- (d) in the case of an order authorising the compulsory acquisition of land, to be served on every owner, lessee or occupier (except tenants for a month or a less period than a month) of any of the land proposed to be compulsorily acquired.

In this subsection the expression "local authority" includes a parish council and the parish meeting of a rural parish not having a separate parish council. [818]

(2) Any such notice shall specify the place where copies of a draft of the proposed order may be obtained, and shall state that the order will be made unless, within such period (not being less than three months from the date of the publication) as may be specified in the notice, written notice of objection to the order is given by any person to the Minister. [819]

(3) Any notice required to be served under paragraph (d) of subsection (1) of this section may be served either—

- (a) by delivering it to the person on whom it is to be served ; or
- (b) by leaving it at the usual or last known place of abode of that person ; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode ; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office ; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of the person on whom it should be served, by addressing it to him by the description of "owner" or "lessee" or "occupier" of the land (describing it) to which it relates and by delivering it to some person on the land, or, if there is no person on the land to whom it can be delivered, by displaying it in a prominent position on the land. [820]

(4) If within the time limited by a notice under this section the Minister receives any written objection to the draft order, he shall, unless he decides not to proceed with his proposals, refer the draft order to the Commission for a report, and shall take no further proceedings thereon until the Commission have reported to him. [821]

Sub-s. (1) (a).—Regard must be had to the locality of both the original and the substituted highway, and the newspapers there circulating.

Sub-s. (1) (b).—Parish councils, and parish meetings when there is no parish council, are included among the local authorities to whom notice must be sent; see proviso to this subsection, *supra*. For normal definition of local authority, for all other provisions of the Act, see s. 59 (1), *post*. The other recipients are gas, water or electricity undertakers having cables, wires, mains or pipes in the highways referred to in paragraph (a), *supra*; this need not necessarily be within their own respective areas of supply.

Sub-s. (1) (d).—While the foregoing paragraphs will apply to any order by the Minister under either s. 15 or s. 16, *ante*, this paragraph will only apply to an order under s. 15 containing provisions authorising the compulsory acquisition of land, as provided by sub-s. (3) thereof.

Sub-s. (2).—The Act does not indicate the place where copies may be obtained, but the order will specify it. The obvious place would appear to be the offices of the local highway authority, i.e., the local county council or county borough council, who will often also be the local planning authority. The time within which written objections can be made to proposals (or draft orders) under Part III is always at least three months; there is no special shorter period as in the case of proposals under Part II affecting industrial premises, for which see s. 8 (5), *ante*.

Sub-s. (3).—The provisions of this subsection as to service of notice are similar (except as to paragraph (e)) to those as to service of notice of proposals for acquisition under Part II of the Act, contained in s. 8 (1), *ante*.

Sub-s. (4).—The Commission, to which a draft order properly objected to must be referred by this subsection, is the War Works Commission. For this see Part I of the Act, ss. 1-3, *ante*, and notes thereto. The Minister on his own initiative can decide not to proceed with his proposals. He must not proceed until the Commission have reported.

18. Proceedings after reference to Commission.—(1) Where a draft order is referred as aforesaid to the Commission for a report, the Commission—

- (a) shall afford to any person who made any such objection as is referred to in the last preceding section, and has not been afforded an opportunity of appearing before and being heard by them, an opportunity of appearing before and being heard by a person appointed for the purpose by them, whether at a public local inquiry or otherwise; and
- (b) may report that the order can be properly made either as proposed or subject to such modifications as may be specified in the report, or that no order ought to be made. [822]

(2) Subject to the provisions of this section, where the Commission report that the order can properly be made subject to modifications or that no order ought to be made, the Minister may, if the making of the order without, or with some only of, the modifications, or, as the case may be, the making of the order, is in his opinion necessary—

- (a) for any purpose for which, apart from the provisions of Part II of this Act, any Minister has power to acquire land under the Defence Acts, or for the proper enjoyment of land which any Minister would have power to acquire under the Defence Acts apart from the provisions of Part II of this Act; or
- (b) for the proper utilisation of government war works on any land, being works the right to use or determine the use of which (whether then or thereafter) ought, in the opinion of the Minister of War Transport, to be preserved or secured for the Crown or for some other person,

proceed to make the order with such of the modifications as he thinks fit to adopt or in the form of the draft referred to the Commission. [823]

(3) The provisions of the last preceding subsection shall not apply to any modification of the draft order relating to the payment of money and if the Minister decides to make an order notwithstanding that the report recommends that no order ought to be made or to make an order without, or with some only of, the modifications recommended by the report as to matters

other than the payment of money, he shall refer back to the Commission the question whether any money should or should not be paid, and shall either defer the making of any order until he receives the report or make his order as to other matters before he receives the report and, if the Commission report that money ought to be paid, make a supplemental order providing for the payment of money in accordance with the report. [824]

(4) Save as aforesaid, the Minister shall not make any order otherwise than in accordance with the report of the Commission. [825]

(5) Before proceeding to make an order otherwise than in accordance with the report of the Commission, the Minister shall lay before both Houses of Parliament a copy of the report and a statement of the reasons why he intends to proceed to make the order notwithstanding the report, and if either House of Parliament within the period of forty days beginning with the date on which a copy of the report and the statement are laid before it resolves that the proposals shall not be proceeded with otherwise than in accordance with the report, the Minister shall not proceed with the proposals otherwise than in accordance with the report.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [826]

This section generally determines the procedure and principles on which the Commission act in considering proposals of the Minister of War Transport under Part III of the Act, that have been referred to them, as provided by s. 17 (4).

Sub-s. (1) (a).—This refers to objections made under s. 17 (4), *supra*.

The objector can be afforded an opportunity of appearing before the Commission; if he is not, he must be afforded such an opportunity before a person appointed by them, and this may or may not be at a public local inquiry, for which see s. 2 (4), *ante*.

Sub-s. (1) (b).—The Commission's report may be (1) a report for the order, or (2) a report for the order, subject to specified modifications, or (3) a report against the order.

Sub-s. (2).—This subsection deals with the consequences of reports in classes (2) or (3) (see note, *supra*), and the powers of the Minister to override the Commission with respect thereto. It is subject to the provisions of sub-s. (3), *supra*, preventing the Minister overriding the Commission on matters relating to the payment of money, and to the provision of sub-s. (5), *supra*, requiring the Minister to refer to Parliament before proceeding to override the Commission.

Sub-s. (3): "The Minister."—I.e., the Minister of War Transport.

This subsection prevents the Minister overriding the Commission on all matters relating to the payment of money, on which matters the Commission's report is the final authority, and the provision of sub-s. (2), *supra*, cannot apply with respect thereto. As to the inclusion of such matters in any draft order see s. 15 (2) (f), *ante*.

Sub-s. (4).—This states the general rule, which is subject only to the exception contained in sub-s. (2), *supra*, as restricted by sub-s. (3), *supra*, that the Minister's final order must be in accordance with the Commission's report.

Sub-s. (5).—This is a procedural consequence of the Minister exercising his powers to override the Commission under sub-s. (2), *supra*. If he does so, he must lay before both Houses of Parliament a copy of the Commission's report, which will be of classes (2) or (3) referred to in the notes to sub-s. (1), paragraph (b), *supra*, and a statement of his reasons for proceeding notwithstanding it. Either House is given an opportunity to resolve that the proposals shall not be proceeded with otherwise than in accordance with the report. The onus is on Parliament so to resolve, and if they do not within the stated period of 40 days then the Minister can proceed with his overriding order. This subsection is identical with s. 9 (6), *ante*, which makes provision for the same reference to Parliament of Minister's proposals, involving the overriding of the Commission, for acquisition under Part II of the Act. In Part III of the Act there is no provision comparable to s. 12, *ante*, which involves positive resolutions by each House of Parliament before proceeding with proposals for the acquisition of a common or open space.

19. Validity and date of operation of orders under Part III.—(1) As soon as may be after making an order under this Part of this Act, the Minister shall publish in the manner specified in subsection (1) of section seventeen of this Act a notice that the order has been made and that copies thereof may be obtained from a place specified in the notice on payment of such sum (not exceeding one shilling) as may be so specified. [827]

(2) If any person aggrieved by any such order desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Part of this Act or that any requirement of this Part of this Act has not been complied with in relation to the order,

he may, within six weeks from the date on which the notice aforesaid is last published in a newspaper in accordance with subsection (1) of this section, make an application to the High Court, and on any such application the Court—

- (a) may by an interim order suspend the operation of the order or any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
 - (b) if satisfied that the order or any provision contained therein is not within the powers of this Part of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Part of this Act not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant. [828]
- (3) Subject to the provisions of the last preceding subsection, an order under this Part of this Act shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever and shall become operative on the date on which such notice is last published as aforesaid. [829]

Sub-s. (1).—The Minister therefore after making his final order, must repeat the procedure for publishing the draft order as provided by s. 17 (1), *ante*. Note here that a charge can be made for copies of the final order; contrast s. 17 (1), *ante*, where there is no provision for the making of such a charge.

Sub-s. (2).—This gives the right to question in the High Court the validity of the whole or any part of the Minister of War Transport's order under Part III. No such right is given by the Act in respect of a Minister's proposals under Part II of the Act.

Sub-s. (3).—If the right to question in the High Court the validity of the order is not exercised or not upheld by the court, then the order shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever. It will become operative on the date of the last newspaper publication of the final order under sub-s. (1), *supra*.

20. Duration of power to make orders.—(1) No order shall be made under this Part of this Act except in pursuance of proposals published in accordance with the provisions of this Part of this Act before the expiration of two years from the end of the war period. [830]

(2) No order authorising the permanent stopping up or diversion of a highway shall be made under this Part of this Act after the highway has ceased to be temporarily stopped up or diverted (whether under emergency powers or by virtue of the next succeeding section) and no order authorising the permanent use and maintenance along, across, over or under a highway of a railway, tramway, cable, wire, main or pipe shall be made under this Part of this Act after the railway, tramway, cable, wire, main or pipe, as the case may be, has been abandoned. [831]

Sub-s. (1).—The material date is the publication of the proposals, or in other words the draft order, as provided by s. 17 (1). The general rule is that this date must be within two years from the end of the war period, which latter term is defined by s. 59 (1) as meaning the period during which the Emergency Powers (Defence) Act, 1939, is in force. See note to s. 14, *ante*, as to the extension of this period.

Sub-s. (2). “The permanent stopping up or diversion.”—I.e., under s. 15, *ante*, as distinguished from s. 21, *post*.

“Temporarily stopped up or diverted.”—I.e., either (a) under emergency powers, which in effect generally means under the Defence Regulations, or (b) by virtue of s. 21, *post*. Accordingly, an order cannot be made under s. 15 after the highway has ceased to be temporarily stopped up or diverted under one or other of the types of *legal powers*, (a) or (b), *supra*.

21. Temporary continuance of stopping up, etc.—(1) Any order made under Defence Regulation for the stopping up or diversion of a highway shall, unless previously revoked by the Minister who made the order, or, if the order was made by the Minister of Transport, by the Minister of War Transport, continue in force by virtue of this section until the expiration of two years from the end of the war period notwithstanding the expiration or revocation of the Defence Regulation in question and notwithstanding that the stopping up or diversion of the highway is no longer required for war purposes :

Provided that where, before the expiration of the said two years, proposals for the permanent stopping up or diversion of the highway have been published in accordance with the provisions of this Part of this Act, the period for which the order is to continue in force, unless previously revoked as aforesaid by virtue of this section shall be extended—

- (a) until an order made under this Part of this Act in pursuance of the proposals becomes operative ; or
- (b) where the proposals are abandoned (whether by reason of an adverse report of the Commission or otherwise) until six months after the abandonment. [832]

(2) A railway, tramway, cable, wire, main or pipe placed along, across, over or under a highway in the exercise of emergency powers or for war purposes may (notwithstanding that the use and maintenance thereof is no longer required for war purposes) continue to be used and maintained along, across, over or under the highway by virtue of this section until the expiration of two years from the end of the war period or such earlier date as may be specified by any Minister who authorised the placing thereof or, if that Minister was the Minister of Transport, by the Minister of War Transport :

Provided that where, before the expiration of the said two years, proposals for the permanent use and maintenance of the railway, tramway, cable, wire, main or pipe have been published in accordance with the provisions of this Part of this Act, the period for which the railway, tramway, cable, wire, main or pipe may be used and maintained by virtue of this section shall be extended—

- (a) until an order made under this Part of this Act in pursuance of the proposals becomes operative ; or
- (b) where the proposals are abandoned (whether by reason of an adverse report of the Commission or otherwise), until six months after the abandonment. [833]

This section is made necessary by reason of the possibility of the early expiration or revocation of Defence Regulations under which orders could be and were made for the stopping up or diversion of highways. The effect of the section is to preserve in force the orders notwithstanding (1) the expiration or revocation of the Regulations under which they were made, and (2) the fact that the stopping up or diversion is no longer required for *war* purposes, for which see s. 59 (1), *post*, and note to s. 16, *ante*.

22. Savings.—(1) Nothing in this Part of this Act shall apply to any telegraphic line placed or maintained by virtue of any of the provisions of the Telegraph Acts, 1863 to 1943. [834]

(2) The references in this Part of this Act to the stopping up or diversion of a highway in the exercise of emergency powers or by an order under any Defence Regulation shall be deemed not to include references to the stopping up of a highway in pursuance of an authority in writing for the stopping up and ploughing thereof given under paragraph (5A) of Regulation sixty-two of the Defence (General) Regulations, 1939, by the Minister of Agriculture and Fisheries. [835]

Telegraph Acts, 1863 to 1943.—These include the Telegraph Acts, 1863 to 1925, the Post Office and Telegraph Act, 1940, and the Telegraph Act, 1943.

PART IV

TELEGRAPHIC LINES

23. General provision as to telegraphic lines.—Where in the exercise of emergency powers the Postmaster General has constructed any telegraphic line, then subject to the provisions of this Part of this Act, the line shall, as from the end of the war period or such earlier date as may be fixed in relation thereto by the Postmaster General, be treated as having been constructed,

with all necessary consents, under and in accordance with the Telegraph Acts, 1863 to 1943, and those Acts shall apply in relation thereto accordingly :

Provided that—

- (a) the line shall not, for the purposes of any agreement made before the passing of this Act for regulating the exercise by the Postmaster General of his rights under those Acts, be treated as having been so constructed ; and
- (b) nothing in this section shall affect the application in relation to the line of the Compensation (Defence) Act, 1939. [836]

“*Telegraphic line.*”—S. 59 (1), *post*; has the same meaning as in the Telegraph Act, 1878, s. 2 of which provides that it “means telegraphs, posts, and any works (within the meaning of the Telegraph Act, 1863), and also any cables, apparatus, pneumatic or other tube, pipe, or thing whatsoever used for the purpose of transmitting telegraphic messages or maintaining a telegraphic communication, and includes any portion of a telegraphic line as defined by this Act.”

Telegraph Acts, 1863 to 1943.—See note to s. 22, *ante*.

The following provisions of those Acts provided for such consents, viz., Act of 1863, ss. 12, 13, 21–23 ; Act of 1878, ss. 3 and 4 ; Act of 1892, s. 3 ; Act of 1908, s. 2 ; Act of 1916, s. 1. As to compensation to owner, lessee and occupier of land across, etc., which a telegraph is placed, see Telegraph Act, 1863, s. 21 (4) ; and as to the right of these persons to require removal of telegraph works, see *ibid.*, ss. 21 (3) and 30.

24. Power of owners, &c., to require removal of telegraphic lines.—

Subject to the provisions of the next succeeding section, at any time after the Telegraph Acts, 1863 to 1943, have become applicable to a telegraphic line in pursuance of the last preceding section, any person whose consent would, if the line were then to be constructed, be required under the said Acts to the construction thereof, may, by notice in writing, require the Postmaster General to remove the line not later than three months from the date of the service of the notice and, unless that person consents to the withdrawal of the notice, the Postmaster General shall remove the line accordingly :

Provided that if, within the said three months, the Postmaster General serves a notice on that person requiring him so to consent—

- (a) a difference shall be deemed to have arisen between the Postmaster General and that person ; and
- (b) the provisions of sections three, four and five of the Telegraph Act, 1878, and of section one of the Telegraph (Construction) Act, 1916 (which provide for the determination of differences as to the placing of telegraphs, posts and telegraphic lines), shall, with any necessary adaptations, apply as if it were a difference arising under the first-mentioned Act, and as if the references in the said provisions to consent to the placing of telegraphs or posts or a telegraphic line were references to consent to the withdrawal of the notice ; and
- (c) the Postmaster General shall not be bound to remove the line until three months from the final determination of any proceedings taken under or by virtue of the said provisions,

and for the purposes of this proviso, proceedings shall not be deemed to be finally determined until the time allowed for appealing has expired or, where an appeal is brought, until the appeal is itself finally determined.

[837]

This section gives rights to landowners and others, whose consents are normally necessary under the Telegraph Act, to require the removal of any emergency telegraphic line, to which the last section applies the provision of those Acts.

25. Deep lines.—(1) Where any line constructed by the Postmaster General in the exercise of emergency powers is a deep line, then, subject to the provisions of this section, no compensation shall be payable to any person, whether under the Compensation (Defence) Act, 1939, or otherwise, by reason of the construction, maintenance or use thereof.

This subsection shall be deemed to have had effect as from the beginning of the war period. [838]

(2) No obligation imposed on the Postmaster General or power conferred on any other person to remove or alter a telegraphic line (whether the obligation is imposed or the power is conferred by or under any Act, including this Act or a local or personal Act, or by or under any agreement or otherwise) shall apply to a deep line constructed in the exercise of emergency powers, but where, after the end of the war period, any person proves that he would, but for the provisions of this subsection, have power to remove or alter, or require the removal or alteration of, any deep line or any part of a deep line, being a line or part in respect of which no compensation has previously been paid under this subsection, the Postmaster General shall pay to him and to every other person then having an estate or interest in the land through or under which that line or part passes a sum equal to the amount by which the values of their respective estates and interests in that land are diminished by the operation of this subsection in relation to that line or part. [839]

(3) If any government war works constructed below the surface of any land in connection with the construction of, but not forming part of, a deep line, remain in the land after the completion of the line, and any person having an estate or interest in the land, proves that the presence of those works in the land interferes or is likely to interfere with any existing or proposed works of his on the land, then, unless compensation has already been paid in respect of the said government war works, the Postmaster General shall pay to him and to every other person then having an estate or interest in the land a sum equal to the amount by which the values of their respective estates and interests in the land are diminished by the presence of the said government war works in that land. [840]

(4) The amount and application of any compensation payable under this section shall be determined in accordance with section seven of the Telegraph Act, 1863, as amended by or under any subsequent enactment. [841]

(5) In this section, the expression "deep line" means a telegraphic line which for the greater part of its course consists of a tunnel containing wires used for the purpose of telegraphic communication and running at a depth of more than thirty feet below ground level, that is to say, below the level of the ground in its natural state or, where the ground is covered with water, below the level of the surface of that water, taken, where the water is tidal, at high tide on an ordinary spring tide. [842]

Sub-s. (1) : "Emergency powers."—These are defined by s. 59 (1), *post*.

"Deep line."—For definition, see sub-s. (5), *supra*. Contrast oil main pipe lines, for which see s. 59 (4), *post*.

"The beginning of the war period."—I.e., August 24, 1939, the date of the commencement of the Emergency Powers (Defence) Act, 1939. This subsection's retrospective operation to that date precludes the possibility of any claim for compensation in respect of any deep line constructed at any time in the exercise of emergency powers.

Sub-s. (2).—As to the obligation imposed on the Postmaster-General, etc., to remove or alter a telegraph line, see the Telegraph Act, 1863, ss. 21, 22, 30. As to the amount and application of the compensation payable under this subsection, see sub-s. (4), *supra*.

General note of sub-s. (3).—The Postmaster-General on May 2, 1945 (410 H. of C. Official Report 1547), explained the object of this subsection in these terms, viz. :—"When these deep lines were laid, naturally a few temporary shafts had to be sunk to help the construction. After the work was finished, these shafts were filled up, and no compensation has been either claimed or charged for any damage of that sort. I have since ascertained that the iron linings of the temporary shafts were left in the ground in the lower depths—not near the surface—and it is conceivable that in the few cases which exist at some future time somebody may be hampered by the fact that the lining is there and may claim that some damage is thus caused to proposed works on that land. If that case should arise, this Amendment gives the possibility of compensation, along the usual lines."

Sub-s. (4) : "S. 7 of the Telegraph Act, 1863."—This section (provision as to compensation) provides for making full compensation for damage sustained by bodies and persons interested, and for the amount and application of such compensation being determined in manner provided by the Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation

(Scotland) Act, 1845, respectively, as amended, for the determination of the amount and application of compensation for lands taken or injuriously affected. For these Acts should now be substituted the Acquisition of Land (Assessment of Compensation) Act, 1919, whose provisions automatically supersede those of the cited 1845 Acts, in England and Wales, and subject to modifications in Scotland and Northern Ireland. The determination under this subsection will therefore be by an official arbitrator under the 1919 Act.

PART V

NEW TEMPORARY PROCEDURE FOR ACQUISITION OF LAND BY LOCAL AUTHORITIES

26. Acquisition by local authorities.—(1) Where, under Defence Regulations, a local authority or combination of local authorities have been directed to do work on, or authorised to use, any land for a purpose for which they are or can be authorised under any Act to acquire land compulsorily, they may be authorised under this Part of this Act to purchase all or any part of the land compulsorily for that purpose by means of an order made by them and confirmed by the appropriate Minister, that is to say,—

- (a) where the purpose was the construction or improvement of a highway, the Minister of War Transport ;
- (b) where the purpose was the performance of any of their functions under the Civil Defence Acts, 1937 and 1939, the Secretary of State or the Minister of Health, according as the Minister of Home Security or the Minister of Health gave the direction or authority ;
- (c) where the purpose was the performance of their functions as a local education authority, the Minister of Education ;
- (d) in any other case, the Minister of Health :

Provided that no land shall be purchased under this section except in pursuance of a notice to treat given before the expiration of two years from the end of the war period. [843]

(2) Where, under Defence Regulations, an authority which are not a local authority or combination of local authorities have done work on or used any land for the purpose of a police force, and a local authority or combination of local authorities are or can be authorised under any Act to acquire land compulsorily for that purpose of that force, the work done or, as the case may be, the use made of, that land by the first-mentioned authority shall, for the purposes of this section, be deemed to be work done on or use made of that land, by the second-mentioned authority or combination of authorities. [844]

General note on s. 26.—In the House of Commons on May 2, 1945, the Government were asked why it was necessary to introduce this section in view of the existing provisions of s. 161 of the Local Government Act, 1935. The following reply was given by the Attorney-General (410 H. of C. Official Report 1548) :—"The reason is that local authorities will exercise their powers under this Act in cases where the work has been done. For instance, there have been cases where houses have been built by local authorities on requisitioned land, and where one is presented with a *fait accompli*. We therefore thought it right to simplify the code, because although a notice of inquiry may be appropriate and proper where nothing has been done, and where there is an appropriate area in which to put up these works, that procedure would be complicated and inappropriate where work has already been done. The Committee will appreciate that these local authority orders apply only where the purpose is one for which the local authority could exercise compulsory powers under the ordinary laws. That is the reason why we have altered the procedure, and I think the Committee will agree that it is correct to do so."

Sub-s. (1). "A local authority."—This is defined in s. 59 (1), *post*, as meaning in England and Wales, "the council of a county, county borough, metropolitan borough or county district (i.e., a borough or urban or rural district), or the Common Council of the City of London." It does not include a parish council, which is a local authority for the purposes of s. 17 (1), *ante*.

"Combination of local authorities."—This is not defined in the Act, but presumably it includes Joint Boards which are bodies corporate, but not Joint Committees, which are not.

"For a purpose for which they are or can be authorised under any Act."—Cases where a local authority are authorised to acquire land compulsorily arise in the first place under private Acts provided by them for the purposes of their general functions, particularly the construction of undertakings and other works. Examples would be local Water Acts, local

Improvement Acts and the like. In the second place they arise under public general Acts. The Local Government Act, 1933, s. 161, which is referred to and applied by the next section (see notes thereto) introduces the procedure of a compulsory purchase order made by the authority and confirmed by the Minister of Health, in such last mentioned cases, viz. "where the local authority are authorised by any public general Act passed after the commencement of this Act (June 1, 1934)." An example of an Act of the nature described is the Restriction of Ribbon Development Act, 1935; s. 13 thereof authorises compulsory acquisition of land for the purposes of that Act and applies the said s. 161.

Cases where a local authority *can be authorised* to acquire land compulsorily arise under the Local Government Act, 1933, itself and other, generally earlier, local government legislation. Thus s. 159 thereof provides that a county council may be authorised to purchase compulsorily any land for the purpose of any of their functions under that Act or any other public general Act; and the council of a borough or urban or rural district is similarly authorised for any of the purposes of the Public Health Acts, i.e., now the Public Health Act, 1936. The following section (i.e., 1933 Act, s. 160) applies the procedure of a Provisional Order to cases where *power to authorise* compulsory purchase is conferred by the 1933 Act itself, or any earlier enactment incorporating s. 176 of the Public Health Act, 1875, which was the earlier comparable section to s. 160 itself, or any subsequent enactment empowering the Minister of Health to authorise compulsory purchase by means of a provisional order.

Generally, therefore, it may be said that for some of their purposes or functions a local authority *are authorised* to purchase land compulsorily, and that for others they *can be authorised* so to do, in which latter case usually a Provisional Order is involved. The test therefore, is; Has the local authority a power of compulsory acquisition of either type for the purpose, or function, for which the direction was issued? As they generally have such a power for virtually all their functions, it might be otherwise expressed as; Is the purpose of the emergency work or user normally a local authority function? If it is, then the present section will apply and, as will be seen later, the local authority is given a power of compulsory acquisition, under the simplified procedure of s. 161 of the Local Government Act, 1933, as if the purpose were one for which already they enjoyed such power.

If the purpose for which the local authority was directed to do work on or to use the land, was one for which they enjoy neither type of power of compulsory acquisition, i.e., for which they can acquire land by agreement only, then they cannot exercise powers under this Part of the Act.

Sub-s. (2).—Under this subsection only a local authority or combination thereof can acquire the land, but they need not have done the work on or used the land, provided they could have compulsorily acquired land for the particular police force for whom the non-local authority did that work, etc.

27. Provisions as to compulsory purchase orders.—(1) The provisions of Part VII of the Local Government Act, 1933, relating to compulsory purchase orders as defined in subsection (1) of section one hundred and sixty-one of that Act shall (notwithstanding anything in paragraph (g) of section one hundred and seventy-nine of that Act) apply in relation to a purchase of land authorised under this Part of this Act subject to the following modifications, that is to say—

- (a) for the references to the Minister of Health there shall be substituted references to the appropriate Minister;
- (b) references to a local authority shall include references to a combination of local authorities;
- (c) where work has been done on the land by the acquiring authority or combination of authorities, the appropriate Minister, if he thinks fit, may—

- (i) direct that subsection (3) of the said section one hundred and sixty-one (which relates to the publication and service of notices) either shall not apply or shall apply subject to such modifications as may be specified in the direction;

- (ii) confirm the order without causing a local inquiry to be held, notwithstanding that objections (being objections not relating to matters which can be dealt with by the tribunal by whom the compensation is to be assessed) have been duly made and have not been withdrawn. [845]

(2) The references in the preceding subsection to Part VII of the Local Government Act, 1933, and to section one hundred and sixty-one and paragraph (g) of section one hundred and seventy-nine of that Act shall, in relation to the Administrative County of London, be construed as references respectively to Part V of the London Government Act, 1939, and to section one hundred and two and subsection (2) of section one hundred and fourteen of that Act. [846]

Sub-s. (1): General note.—As a result of the application of s. 161 of the Local Government Act, 1933, by the present subsection the procedure for acquisitions by local authorities outside London will be as follows :—

The order must be in the form prescribed by the Local Government (Compulsory Purchase) Regulations, 1934, paragraph 3, Schedule, Form 2. It must describe the land by reference to a map. It must incorporate provisions of the Lands Clauses Acts and Railways Clauses Consolidation Act, 1845, as provided in the Local Government Act, 1933, Schedule VI.

Notice of the draft order must be published in the local press and served on owners, lessees and occupiers (except tenants for a month or less) as provided by sub-s. (2) of the said s. 161; but these requirements and that as to a public inquiry if there are objections, may be dispensed with or modified by the appropriate confirming Minister where work has been done on the land.

When there are no objections or all are withdrawn the appropriate Minister may confirm the order with or without modifications.

Otherwise he must cause a local inquiry to be held and consider the report thereof and the objections before so doing. He may require objections to be written and dispense with the inquiry if satisfied they relate exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed. In any case the order as confirmed can include less land but never more.

Notice of the final order, where confirmed by the Minister, must be published in the local press, when it will become operative, and served on recipients of the draft order. Powers under the order may be exercised within the time prescribed therein, or if none is, within three years of the confirmation of the order.

The validity of the order may be questioned by application to the High Court within two months of its becoming operative; thereafter it cannot be questioned in any legal proceedings; see Local Government Act, 1933, s. 162. S. 179, paragraph (g) of that Act, to which the present subsection refers, provides that nothing in Part VII, which includes ss. 161 *et seq.*, shall affect certain provisions contained in enactments set out in Schedule VII. In view of the contents of the present subsection, this saving provision and Schedule VII will not apply to acquisitions under Part V of the present Act.

Sub-s. (2).—This subsection makes the necessary adaptations in the references in sub-s. (1), to cover cases of acquisition by local authorities in the administrative county of London, including the council thereof.

PART VI

TEMPORARY POWERS AS TO MAINTENANCE, USE AND REMOVAL OF WORKS, &c.

28. Maintenance and use of works and continuance in possession.—(1) Where government war works have been constructed on any land, any Minister may maintain and use, or authorise the maintenance and use of, those works for the purposes of the public service or for any purpose for which they were maintained or used in the exercise of emergency powers. [847]

(2) Any Minister may retain or authorise the retention of possession of any land which (whether by virtue of an exercise of emergency powers or otherwise) is in his possession or in that of any person who is occupying or using it under his authority, notwithstanding the determination of any other right thereto, and, where possession of any land is retained under this subsection, any Minister may use it or authorise its use for the purposes of the public service or in any manner in which it was being used immediately before possession was so retained :

Provided that where notice to treat has been given, the Minister may authorise the use of the land by any person, in any manner and for any purpose, but, where he gives an authority by virtue of this proviso, the power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable. [848]

(3) In connection with the use of any works or land under this section—

(a) any person having the use of the works or land may continue to exercise and enjoy all such rights and advantages as, immediately before the use under this section began, were, by agreement or otherwise, being exercised or enjoyed in connection with the use of the works or land for war purposes by the person then having the use thereof (including, but without prejudice to the generality of the preceding words, rights and advantages as to the taking of water, whether for the purposes of a water undertaking or for other purposes); and

- (b) any orders made under Defence Regulations in connection with the use of the works or land for war purposes and in force immediately before the use under this section began (including, but without prejudice to the generality of the preceding words, any order authorising the taking of water, whether for the purposes of a water undertaking or for other purposes) shall continue in force in relation to the works or land except in so far as revoked in relation thereto by order of the Minister using, or, as the case may be, authorising the use of, the works or land. [849]

Sub-s. (1): "Government war works."—This expression is defined by s. 59 (1), *post*. As to evidence of their construction, by means of a minister's certificate, see s. 58, *post*.

"Any Minister."—I.e., as defined by s. 59 (1), *post*. The powers conferred by this Part of the Act are not confined to specified Ministers only as are those conferred by Part II, for which see s. 4 (2), *ante*.

Sub-s. (2), proviso.—The giving of a notice to treat empowers the Minister to authorise the use of the land by any person, for any purposes, not necessarily those of the public service. Thus *semble* the Minister after giving his notice to treat could allow a private industrial undertaking to use for their own purposes a government factory, about to be acquired under this Act by him with a view to its re-sale to them.

Sub-s. (3) (a): "By agreement."—See s. 51, *post*, preserving the effect of agreements. As to evidence, see s. 58, *post*.

29. Removal of works and restoration of land.—(1) Where government war work has been done on any land, or where the value of any land has been diminished by damage caused by government war use thereof, any Minister, or any person acting under the authority of any Minister, shall have power and be deemed always to have had power, as against all persons interested in the land—

- (a) to remove any works constructed or other thing placed on, over or below the surface of the land in the course of the work; and
- (b) for the purpose of restoring the land wholly or partly to the condition in which it was before the work was done or the damage was caused, to do such work on the land as he thinks fit; and
- (c) for the purpose of exercising those powers, to enter upon any land of which he is not in possession:

Provided that—

- (i) the powers conferred by this subsection shall not be exercisable in relation to any works in respect of the value of which an amount has been paid under Part II of this Act to a Minister in pursuance of a report of the Commission; and
- (ii) after the passing of this Act, entry upon any land shall not be demanded as a right under paragraph (c) of this subsection unless reasonable notice of the intended entry has been given to the occupier of the land; and
- (iii) where in connection with any works an agreement in writing has, whether at, before or after the time of the construction thereof been made by or on behalf of any Minister with any person then having an interest in the land on which the work is constructed, which contains a specific provision that the works should belong to that person permanently, the said powers shall not be exercisable in relation to those works so as to defeat that provision of that agreement. [850]

(2) Where any land is damaged in the exercise of the powers conferred by paragraph (c) of subsection (1) of this section, the Minister shall pay such compensation to the persons interested in the land as may be just, and any dispute as to the compensation payable shall be decided by the General Claims Tribunal constituted under the Compensation (Defence) Act, 1939. [851]

- (3) Without prejudice to the operation, as respects the war period, of

any Defence Regulation, no person (other than a constable or servant of His Majesty acting in the course of his duty as such) shall, except with permission granted by or on behalf of a Minister, remove, alter or tamper with anything which a Minister has power to remove under this section. [852]

General note on s. 29.—The object of this section was explained by the Attorney-General on May 2, 1945 (410 H. of C. Official Report 1556), as follows :—

"The object with which (this section) was inserted was to make it clear that Ministers have power to go on land to remove works and restore land. It was not quite clear whether they had that right. Everybody wants them to have that power. The whole Committee want them to go and do it. Therefore we made it retrospective because a certain amount had been done already with the general approval of the House of Commons and the whole country. (S. 29) will, therefore, be retrospective. (S. 31), which applies to compensation values, must also be retrospective."

Sub-s. (1) : "Government war work" : "Government war use."—See definition in s. 59 (1). *post.* As to certain Ministers' powers of acquisition of the land in these circumstances under Part II of the Act, see ss. 5 and 6, *ante.*

"Any Minister."—I.e., not only those who are given powers of acquisition under Part II, for which see s. 4 (2), *ante.*

Sub-s. (2).—The Financial Secretary to the Treasury on May 2, 1945 (410 H. of C. Official Report 1552), made the following comments on this subsection :—"It seems to us fair and reasonable that if the Government enter upon land, and in so doing damage the land, and a third party, whose land it is, has to traverse that land, reasonable compensation shall be paid. . . . The reason why compensation provided is limited to cases coming under paragraph (c) is that, by virtue of (s. 31), compensation is already payable in respect of powers conferred by subsection (1) (a) and (b), under the Compensation (Defence) Act, 1939. . . . Damage under each of these three paragraphs will be provided for."

Sub-s. (3) : "War period" : "Defence Regulation."—These expressions are defined by s. 59 (1), *post.*, and see notes thereto.

30. Duration of powers under Part VI.—(1) Subject to the provisions of subsection (4) of this section, the right to exercise the powers conferred by this Part of this Act shall cease on the expiration of two years from the end of the war period. [853]

(2) Without prejudice to the provisions of subsection (1) of this section, but subject to the provisions of subsection (4) of this section, any right to exercise the said powers which arises by reason of anything done on land while in the possession of a Minister, or of a person who is occupying or using it under the authority of a Minister, shall not be available when the land is no longer in the possession of a Minister or any such person :

Provided that where any land is in the possession of a Minister or of a person who is occupying or using it under the authority of a Minister, that Minister may, by a notice served on the person for the time being entitled to receive any rent or compensation in the nature of rent in respect of possession of the land by the Minister or the person so occupying or using it, and published in such manner as the Minister thinks best adapted for informing any other persons affected, reserve the rights conferred by the last preceding section in relation to that land, and where such a notice is given this subsection shall not apply to the said rights. [854]

(3) Without prejudice to the preceding provisions of this section but subject to the provisions of subsection (4) of this section, where work has been done on any land while that land was not in the possession of a Minister or of a person who was occupying or using it under the authority of a Minister, any right to exercise the powers conferred by the last preceding section which arises by reason of the doing of the work shall not be available after any person has, by virtue of a notice given under paragraph (b) of subsection (3) of section three of the Compensation (Defence) Act, 1939, or by virtue of any agreement, become entitled to receive from the Crown a lump sum by way of compensation in respect of the doing of the work. [855]

(4) Notwithstanding anything in the preceding provisions of this section, where proceedings commenced before the expiration of two years from the end of the war period for the acquisition of any land by a Minister or a local authority or combination of local authorities are abandoned, the right to exercise the powers conferred by the last preceding section shall remain available until the expiration of six months from the abandonment :

Provided that this subsection shall not apply where the abandonment is by virtue of the giving of an undertaking under Part II of this Act in pursuance of a report of the Commission.

For the purposes of this subsection, proceedings for the acquisition of land shall be deemed to have been commenced if notice to treat for the acquisition thereof has been given or if proposals for the acquisition thereof have been published under Part II of this Act. [856]

*Sub-s. (1).—*This states the general rules that the powers conferred by the provisions contained in Part VI of the Act (as indeed most of the other Parts of the Act, e.g., Part II, see s. 14, *ante*) must be exercised before the expiration of two years from the end of the war period. This is subject to sub-s. (4), *supra*. See also note to s. 14, *ante*.

Sub-s. (2) : "While in the possession of a Minister, or of a person, etc."—As to evidence of this, by means of a Minister's certificate, see s. 58, *post*.

The proviso refers to a Minister reserving his rights under s. 29, *ante*.

"Person for the time being entitled to receive any rent or compensation, etc."—Rent would be received under a lease or agreement for the same, for consequences of which see s. 29 (1), proviso (iii), *ante*, and s. 51, *post*. Compensation in the nature of rent would be received under s. 2 (1) (a) of the Compensation (Defence) Act, 1939.

Sub-s. (3) : "Where work has been done on any land."—See s. 59 (2), *post*.

"By virtue of any agreement."—For consequences of such agreement, see s. 29 (1), proviso (iii), *ante*, and s. 51, *post*.

31. Compensation and adaptation of enactments.—(1) The powers conferred by this Part of this Act shall be deemed for the purposes of the following enactments, that is to say—

- (a) the Compensation (Defence) Act, 1939 ; and
- (b) the Landlord and Tenant (Requisitioned Land) Acts, 1942 and 1944 ; and
- (c) any provisions of the War Damage Act, 1943, referring to requisitioned land or to work done on land in the exercise of emergency powers,

to be powers exercisable by virtue of Defence Regulations. [857]

(2) In relation to the exercise of the powers so conferred, the period mentioned in subsection (1) of section one of the Compensation (Defence) Act, 1939, shall extend to the end of the period for which the powers so conferred are exercisable and, where possession of any land is retained in pursuance of the powers so conferred, the retention of possession by virtue of those powers and the original taking and retention of the land apart from those powers shall be treated for the purposes of section two of that Act as being one transaction, and the references in the said section two to the period for which the possession of the land is retained shall be construed accordingly. [858]

(3) Where, if the powers so conferred had been exercised under Defence Regulations, either—

- (a) compensation would, by virtue of any Defence Regulation, be payable in respect of the exercise thereof otherwise than under the Compensation (Defence) Act, 1939 ; or
- (b) compensation in respect of the exercise thereof would have been payable under that Act, but subject to modifications,

the like compensation shall be payable in respect of the exercise thereof, and, so far as respects the exercise thereof, any Defence Regulation providing for the payment of the compensation or for the modifications, as the case may be, shall continue in force notwithstanding that it has expired for all other purposes, whether by virtue of the expiration of the Emergency Powers (Defence) Act, 1939, or otherwise. [859]

(4) This section shall be deemed always to have had effect. [860]

General note on s. 31.—The purpose of this section was thus expressed by the Attorney-General on May 2, 1945 (410 H. of C. Official Report 1552) :—

"The purpose of the Clause was to say that the powers conferred by this Part of the Act shall attract the Compensation (Defence) Act in the same way as action taken under Defence Regulations. The purpose was to bring into the scope of this Bill and the various things that can be done under it, the compensation code which applies to the exercise of emergency

powers during the war. The exercise of emergency powers is, in the main, done under Defence Regulations, and the Compensation (Defence) Act, which is referred to in the Clause as drafted, is the main statutory provision dealing with compensation. When we came to go into the matter in rather more detail, I do not say we discovered, but we realised that there were certain other statutes which, in one direction or another, affected and altered the compensation code.

For instance, the Landlord and Tenant (Requisitioned Land) Acts of 1942 and 1944 affect, in some cases, the compensation which is payable and the position which arises when property is requisitioned. The Act of 1942 dealt with a rather special case which is best exemplified by the service flat—a case where the tenant was paying, as rent, a sum which included payment for services, and not merely for the right to occupy, and that was dealt with. The Landlord and Tenant (Requisitioned Land) Act of 1944 dealt with a rather complicated question. It came to light that there was a possibility of a landlord being able to get compensation from the State and also being able to say to his tenant, "You have not fulfilled your covenant to repair." The War Damage Act deals with the question of compensation. The first purpose of these Amendments is simply to bring into this Clause, those Statutes which affect compensation and the effect of the application of the Compensation (Defence) Act. That is the first purpose."

PART VII

APPLICATION AND AMENDMENTS OF DEFENCE ACTS, &c.

32. Application of Defence Acts to acquisitions by virtue of Part II.—

(1) Subject to the provisions of this and the next succeeding section, the provisions of the Defence Acts specified in the Schedule to this Act shall have effect as if references in whatever terms to the principal officers of Her Majesty's ordnance or to the Secretary of State for the War Department or to the ordnance department included references to the Minister of War Transport, the Postmaster General and the Minister of Works and to their respective departments, so as to confer on those Ministers any powers, rights or privileges in relation to the acquisition of land by virtue of Part II of this Act and in relation to the holding, management, use and disposal in any manner of land so acquired, which under the said provisions are vested in the Secretary of State for War as respects land which, apart from the said Part II, he has power to acquire under the Defence Acts. [861]

(2) Subject to the provisions of this and the next succeeding section, the Defence Acts shall, in relation to the said Ministers and to any Minister who, apart from the said Part II, has power to acquire land under the Defence Acts, have effect as if any acquisition by virtue of the said Part II were an acquisition under those Acts for the purposes of the department of the Minister in question or the defence of the realm. [862]

(3) Notwithstanding anything in the preceding provisions of this section, nothing in section fourteen of the Defence Act, 1842 (which provides for the resale, free of incumbrances, of land acquired under that Act) or in the corresponding provisions of the Admiralty Lands and Works Act, 1864, shall enable any land acquired by virtue of Part II of this Act to be disposed of free from any restriction as to user of that land or as to building thereon. [863]

Sub-s. (1). "The principal officers of Her Majesty's ordnance or, etc."—These are references to the officers, the Minister and departments named in, *inter alia*, the following sections of the Defence Acts; 1842 Act, ss. 5-9, 12, 13, 16, 19, 34, 36, 39; 1859 Act, s. 2; 1860 Act, ss. 29-31; 1873 Act, s. 1, and see Ordnance Board Transfer Act, 1855, which transferred to the Secretary of State for War all powers, etc., vested in Ordnance Department and its principal officers.

"The Minister of War Transport, the Postmaster General . . . the Minister of Works."—See notes to s. 4 (2), *ante*. These are given by this section powers, etc. (1) of acquisition of land by virtue of Part II, i.e., ss. 4 *et seq.*, *ante*, and (2) of holding, use, disposal, etc., of land, which the Defence Acts vest in the Secretary of State for War in respect of land he can acquire thereunder. This is subject to the provisions both of this section, s. 32, and the next section.

33. Modifications of Defence Acts in relation to acquisitions not by virtue of Part II.—(1) The power of any Minister to acquire land under the Defence Acts for any purpose otherwise than by virtue of Part II of this Act shall, where the notice to treat is given before the expiration of two years from the end of the war period, include power to acquire for the same purpose, in accordance with the provisions in that behalf contained in this Part of this

Act, any easement over or right restrictive of the user of any land, being an easement or right which he requires for that purpose. [864]

(2) It is hereby declared that any power of any Minister to acquire under the Defence Acts, otherwise than by virtue of Part II of this Act, land for any purpose is not affected by the fact that his office is a temporary one or that, after the expiration of a certain period, some other Minister may be the Minister concerned, or that he can obtain or has obtained possession apart from those Acts. [865]

General note.—This section sets out two modifications in the Defence Acts in regard to acquisitions of land under those Acts and not by virtue of Part II of the 1945 Act. The first, in sub-s. (1), giving a power to acquire easements or restrictive rights, operates only before the expiration of two years from the end of the war period. The second, in sub-s. (2), declaring that the fact of any Minister's office being a temporary one does not affect his powers of acquisition of land under the Defence Act, operates permanently. For further powers of a Minister under the Defence Acts, in this case to provide land in lieu of land acquired thereunder, see s. 53, *post*.

"Easement."—For extended meaning given to the term for the purposes of the Act, and the Defence Acts, see s. 59 (3), *post*. See also s. 59 (4), *post*, as to a continuous main or pipe; this latter provision is intended to deal with the war-time trunk oil pipe lines.

"Right restrictive."—This includes a covenant to limit the growth of trees; see s. 59 (5), *post*.

General note on sub-s. (1).—The effect of this subsection was explained by the Attorney-General on May 3, 1945 (410 H. of C. Official Report 1630) as follows:—"What subsection (1) does is to extend the powers under the Defence Acts to include the purchase of easements or the acquisition of rights which restrict the use of land. At present under the Defence Acts, you cannot secure rights such as these. It is reasonable that such rights should exist, and, indeed, in many cases, it might avoid the necessity of purchasing land, because the Defence Department would get what it wanted by getting the restrictive right. For instance, on land in the immediate vicinity of a defence aerodrome, it may be necessary to restrict the right of building construction or growing trees. If you wanted to be sure of that, you would have to buy. This gives power, not to buy, but restrict its use in a way which would be consistent with the defence purpose. Though, under this subsection, it is restricted to two years, it might well be reasonable as a permanent provision. That is what the subsection does."

34. Power to acquire particular levels only and reversionary interests.—

(1) Where the notice to treat is given before the expiration of two years from the end of the war period or the acquisition is by virtue of Part II of this Act, the surface of any land may be acquired under the Defence Acts without the minerals or subjacent strata or any part thereof and (subject to the provisions of subsection (1) of section seventeen of the Coal Act, 1938) the minerals or subjacent strata or any part thereof may be acquired under those Acts without the surface. [866]

(2) Without prejudice to any power in that behalf exercisable under the Defence Acts apart from this section, where a Minister or any person on behalf of a Minister is in possession of any land under a lease or tenancy and either the notice to treat is given before the expiration of two years from the end of the war period or the acquisition is by virtue of Part II of this Act, any interest reversionary thereon may be acquired under the Defence Acts. [867]

General note.—This section sets out modifications in the Defence Acts which will apply to acquisitions by virtue of Part II of the Act, or acquisitions under those Acts within two years from the end of the war period; generally therefore they will operate only within that period.

The Financial Secretary to the Treasury on May 3, 1945 (410 H. of C. Official Report 1631), stated:—"The purpose of the clause really is to avoid unnecessary acquisition. For example, in the case of deep shelters, we do not want to have to buy the extremely valuable buildings on the surface in order to acquire the shelters. I think the point which is worrying my hon. Friend is that, if the Government bought the surface only, they would thereby prejudice the opportunity of the owner of the minerals to exploit them. For example, as my hon. Friend says, there might be gravel-beds lying just under the surface, and the fact that the Government had appropriated the surface of the land would interfere with the working of the gravel. I can assure my hon. Friend that, if such a case arose, the position of the owner of the minerals would be fully safeguarded, because he would get compensation for injurious affection under the Defence Act code, which is applied by this Part of the Bill to the purchase of the surface."

35. Amendments as to procedure.—

(1) Where the notice to treat is given before the expiration of two years from the end of the war period or the acquisition is by virtue of Part II of this Act, land may be compulsorily

acquired under the Defence Acts notwithstanding that it has not been surveyed and marked out in accordance with section sixteen of the Defence Act, 1842, and references in the Defence Acts to land surveyed and marked out under that section shall be construed as including references to land described in a notice to treat for the acquisition thereof. [868]

(2) Where the notice to treat is given before the expiration of two years from the end of the war period or the acquisition is by virtue of Part II of this Act, section twenty-three of the Defence Act, 1842 (which requires the consent of the Lord Lieutenant and a warrant from the Treasury before the exercise of compulsory powers under that Act), and so much of the proviso to section seven of the Lands Clauses Consolidation Acts Amendment Act, 1860, as requires compliance with the said section twenty-three, shall not have effect. [869]

This section sets out modifications in the Defence Acts, by way of dispensing with the stated procedural requirements thereof, which will apply in the same way as those in s. 34, *ante*.

Sub-s. (1): "Section 16, Defence Act, 1842."—This empowers principal officers of H.M. Ordnance to survey and mark out lands, and treat for their purchase. S. 19 of the same Act, in default of treating, empowers them to obtain possession, etc., of land so marked out and surveyed.

36. Notice to treat to acquire easements or other rights.—(1) Where, under the Defence Acts, a Minister has power to acquire an easement over or right restrictive of the user of any land, he may, with a view to the creation by grant to him, or covenant with him, of the easement or right, serve a notice to treat for the acquisition of the easement or right on the person who would, under the said Acts or otherwise, be entitled to sell the land to be adversely affected by the easement or right, or otherwise have any interest in the land. [870]

(2) Any power of any persons under the Defence Acts to sell or convey land shall be deemed to include power to create by grant to, or covenant with, a Minister any easement or right which that Minister has power to acquire under those Acts. [871]

(3) A notice to treat for the acquisition under the Defence Acts of an easement relating to water may be addressed generally to all persons interested in any land which will be adversely affected by the easement, and, if so addressed, shall, without prejudice to any other mode for the service thereof, be deemed to be duly served on all persons to whom it is addressed if it is published in the London Gazette and in such other manner (whether in newspapers or otherwise) as is, in the opinion of the Minister, best adapted for informing persons affected. [872]

This section, and all that follow in this part of the Act, i.e., ss. 36 to 39 inclusive, are all consequential upon s. 33 (1), *ante*, which for the period there stated, extends Defence Acts powers to include the acquisition of easements or restrictive rights. The Defence Acts themselves do not expressly give such a power; for the definition of "land" for the purposes of those Acts, see the Defence Act, 1860, s. 47, which provides that "the word 'lands' shall extend to messuages, lands, tenements, and hereditaments of any tenure." These sections deal with the manner in which the Minister can exercise his power to acquire the easement or restrictive right, and the compensation that thereby becomes payable. Note extended meaning given to the term easement by s. 59 (3), *post*; and as to continuous main or pipe, see, s. 59 (4), *post*.

Sub-s. (1): "Under the Defence Acts."—Until the expiration of two years from the end of the war period (for which see s. 59 (1), *post*, and notes thereto), s. 33 (1), *ante*, giving the power to acquire easements or restrictive rights must be read as part of the Defence Acts.

Sub-s. (2):—This subsection extends the powers of landowners, etc., to sell or convey land to a Minister. It should therefore now be read with similar provisions in the Defence Acts, dealing with such powers. All these provisions are of importance generally in conveyancing law.

Sub-s. (3):—The procedural requirements of this subsection apply only to the acquisition of an easement relating to water.

"In the opinion of the Minister."—See notes to s. 2 (3), *ante*, under the heading "as the Commission think fit." The manner of publication (additional to that in the appropriate Gazette) is not prescribed (contrast publication of proposals under Part II, for which see s. 8 (1), *ante*), but is left to the Minister's discretion.

37. Method of compulsory acquisition of easements and rights.—(1) If, in the opinion of the Minister, he will be unable, or unable without undue delay, to acquire any such easement or right as aforesaid by agreement, he may, at any time after two months from the service of the notice to treat, execute a deed poll conferring on himself and, except so far as otherwise expressed, his successors in title, the easement or right in question. [873]

(2) A deed poll so executed shall have the like effect as, and shall for the purposes of the Land Registration Act, 1925, and the Land Charges Act, 1925, be deemed to be, a deed of grant or covenant entered into with the Minister by all necessary parties. [874]

(3) Where any of the land adversely affected by an easement or right conferred as aforesaid is registered land, then; notwithstanding anything in section sixty-four of the Land Registration Act, 1925, the grant of the easement may be registered and notice thereof entered in the register, or, as the case may be, notice of the right may be so entered, without the production of any land certificate outstanding in respect of that land, without prejudice, however, to the power of the registrar to compel the production of the certificate for the purposes mentioned in that section. [875]

(4) A statement in a deed poll executed under this section that the requirements of subsection (3) of the last preceding section have been complied with shall, except for the purposes of proceedings commenced not later than two years after the execution thereof, be conclusive evidence that those requirements have been complied with. [876]

(5) Where the Minister executes a deed poll under this section, he shall give notice of the effect thereof in such manner as is in his opinion best adapted for informing persons affected. [877]

General note on s. 37.—The Chancellor of the Exchequer on May 3, 1945 (410 H. of C. Official Report 1643), explained the reason for this section as follows:—"I will put the matter as simply as I can. Land may be acquired by a public Department either under the provisions of this Bill, or under the Defence Acts. In framing the provisions of this Bill, we were at pains to provide, as an alternative to the outright acquisition of land, the less drastic course of acquiring an easement. Under this Bill either where the land is acquired outright, or where the Government Department concerned is satisfied to go no further than to require an easement, the Commission can be invoked if there is any objection. Take the parallel case of acquisition under the Defence Acts. At the present time, under those Acts, a Government Department, if the condition of those Acts are satisfied, can go in and acquire the land outright. They can enter into possession of the land immediately, and there is no provision in that case corresponding to the provision in this Bill for reference to a Commission."

What we are doing here in the case of acquisition under the Defence Acts is to provide an exact parallel to the provision made by this Bill for acquisition under the special provisions of this Bill, and to provide for the acquisition of easements as an alternative to acquiring land outright for the purposes of defence. Just as the Defence Acts make provision for the immediate entry upon land by the Government Department where it is required for defence, and is being purchased outright, here we propose, by deed poll provisions, to provide a procedure, so far as it may be necessary, for immediate acquisition of the easement, in the case where acquisition of the easement is felt to be sufficient, instead of acquiring the land outright. From that point of view this is a provision which is by way of relief to the landowner, and provides a method by which the requirements of the Defence Departments can be satisfied, stopping short of full acquisition. That is what I have to say by way of explanation of and justification for this proposal."

38. Miscellaneous provisions as to easements and rights acquired under Defence Acts.—(1) Where—

- (a) a right restrictive of the user of any land has been acquired by a Minister under the Defence Acts, whether by the execution of a deed poll or otherwise; and
- (b) between the date of the notice to treat and the acquisition of that right, any works have been constructed on, over or below the surface of the land adversely affected by the right; and
- (c) the construction of the works would have been an infringement of the right if it had taken place after the acquisition thereof,

the Minister shall be entitled to remove the works and to recover the costs reasonably incurred by him in so doing from the person by whom the works were constructed. [878]

(2) A Minister may, with or without consideration, release either wholly or partly an easement or restrictive right acquired under the Defence Acts.

[879]

(3) Section eighty-four of the Law of Property Act, 1925 (which relates to the discharge or modification of restrictive covenants), shall not apply to any covenant obtained under the Defence Acts so long as the covenant is enforceable by a Minister against the persons for the time being entitled to the land adversely affected thereby; but nothing in this subsection shall affect the operation of subsection (11) of the said section eighty-four (which excepts from the operation of that section, *inter alia*, restrictions created for naval, military or air force purposes. [880]

Sub-s. (1) (a): "A Minister under the Defence Acts."—For Ministers given powers under the Defence Acts, see notes to s. 4 (2), *ante*; as to powers thereunder with respect to the acquisition of easements and restrictive rights, see s. 33, *ante*, and notes to sub-s. (1) thereof.

Sub-s. (3): Law of Property Act, 1925, s. 84.—Note that a town planning scheme also can provide for the discharge or modification of restrictive covenants; s. 11 and Schedule II, Town and Country Planning Act, 1932.

39. Compensation for acquisition of easements and rights.—Where an easement over or right restrictive of the user of any land is acquired under the Defence Acts, any person having an interest in that land shall, if the value of his interest is diminished by the acquisition of the easement or right, be entitled to receive from the Minister a acquiring the easement or right compensation in respect of the diminution. [881]

This section gives a right to compensation for the acquisition of an easement or right, which is now possible under the Defence Acts (so far as concerns Ministers given powers thereunder, see s. 4, *ante*) by virtue of s. 33, *ante*. It is the equivalent of the provisions of the Defence Acts and Lands Clauses Acts giving a right to compensation for the acquisition of land thereunder. The procedure and the rules for the assessment of compensation here, as under the Defence Acts and Lands Clauses Acts, will be as provided by the Acquisition of Land (Assessment of Compensation) Act, 1919, as now amended, as to rules of procedure, by the Town and Country Planning Act, 1944, Parts II and III, and by Part VIII of the present, i.e., the 1945 Act, *post*.

PART VIII

ADJUSTMENT OF COMPENSATION ON ACQUISITION OF LAND

40. Application of Part VIII.—The provisions of this Part of this Act shall have effect where, in pursuance of a notice to treat given between the passing of this Act and the expiration of two years from the end of the war period, or by virtue of section nine of the Agriculture (Miscellaneous Provisions) Act, 1941, or of Part II of this Act, either—

- (a) land is compulsorily acquired by a Minister; or
- (b) land is compulsorily acquired under the provisions of Part V of this Act by a local authority or combination of local authorities; or
- (c) land, which, at the date of the notice to treat, is, by virtue of an exercise of emergency powers, in the possession of a Minister or a person acting under the authority of a Minister, is compulsorily acquired otherwise than by virtue of the said Part V by a local authority or combination of local authorities; or
- (d) land, which, at the date of the notice to treat, is, by virtue of an exercise of emergency powers, in the possession of or in use for the purposes of a drainage board, is compulsorily acquired by that board,

and, subject to the adaptations specified in this Part of this Act, shall also have effect where compensation is payable on the discharge or modification of a restriction under Part II of this Act or on the acquisition under the Defence Acts of an easement over or right restrictive of the user of land.

[882]

General note.—This section in effect provides that in any of the three first-mentioned circumstances of acquisition of land, i.e. (i) acquisition between June 15, 1945, and two years after the war period (this would cover all forms of acquisition involving a notice to treat whether by a Minister under the Defence Acts or Lands Clauses Acts, or by a local authority, etc., under the latter or other Acts), or

(ii) acquisition by virtue of s. 9, or

(iii) acquisition by virtue of Part II of the present Act, then Part VIII of the present Act will apply to that acquisition, if it is of one of the following kinds, i.e.,

(a) compulsory acquisition by a Minister, or

(b) compulsory acquisition by a local authority under Part V of the present Act, or

(c) compulsory acquisition by a local authority, under powers other than the said Part V, of land in the Minister's possession by virtue of emergency powers,

or

(d) compulsory acquisition by a drainage board of land in their possession or used by them by virtue of emergency powers.

Part VIII will so apply if there is a continuation of one of (i), (ii), or (iii) plus one of (a), (b), (c) or (d).

Finally, it will also apply when compensation is payable on the discharge or modification of a restriction under Part II or on the acquisition of an easement or restrictive right under the Defence Acts.

"S. 9 of the *Agriculture (Miscellaneous Provisions) Act, 1941.*"—This confers on the Minister of Agriculture powers of acquisition, compulsorily or by agreement, of land possession of which has been taken by him or by War Agricultural Executive Committees under emergency powers. The sections and related provisions of the Act are the equivalent, as to purpose and content, in respect of agricultural land, to Part II of the present Act, in respect of land generally.

41. Elimination of value due to government war work, etc.—(1) Subject to the provisions of this section, in assessing the compensation such adjustment shall be made therein (so far as it depends on the value or changes in the value of any land) as is necessary to offset any increase or diminution of the compensation attributable directly or indirectly to, or to a combination of, any of the following factors, that is to say—

(a) any damage occurring to the land acquired or any contiguous or adjacent land while the land acquired was, during the war period, in the possession of a Minister or of a person occupying or using it under the authority of a Minister ;

(b) any work done at any time since the beginning of the war period on the land acquired or any contiguous or adjacent land by or by arrangement with a Minister or the acquiring authority or combination of authorities or in the exercise of emergency powers ;

(c) any prohibition or restriction imposed in the exercise of emergency powers on the doing of any work on the land acquired or on any contiguous or adjacent land :

Provided that, in assessing any compensation for injurious affection of land other than the land acquired, account may, notwithstanding anything in this subsection, be taken of the actual state and circumstances of the land acquired as existing at the date of the notice to treat in so far as they may be expected to persist after the purchase. [883]

(2) Subject to the provisions of this section, where any such work as is mentioned in paragraph (b) of subsection (1) thereof was done wholly or partly at the expense of, or in pursuance of an agreement with, any person having an interest in the land acquired, any increase of value attributable to the expenditure incurred by, or consideration moving from, that person shall, notwithstanding anything in the said subsection (1), be taken into account in assessing the compensation payable in respect of that interest. [884]

(3) Where, in connection with any previous proposal to acquire any of the land acquired, a payment in respect of the value of any works has been made to a Minister under Part II of this Act in pursuance of a report of the Commission, any increase of value attributable to the construction of the works shall, notwithstanding anything in subsection (1) of this section, be taken into account in assessing any compensation payable in respect of the land. [885]

(4) Paragraph (b) of subsection (1) of this section shall not apply to work

done, under such circumstances that a payment of cost of works falls to be made in respect thereof, for making good war damage, unless that war damage is such damage as is mentioned in paragraph (a) of that subsection :

Provided that where the work done included alterations or additions and the cost thereof was greater than the permissible amount in relation to a payment of cost of works, such deduction, if any, as may be just shall be made from the compensation in respect of the additional value, if any, of the land ascribable to the excess. [886]

(5) Where the land acquired or any contiguous or adjacent land consists of or includes the whole or any part of a hereditament which has suffered war damage, and a payment falls to be made under the War Damage Act, 1943, in respect of that damage—

(a) paragraph (a) of subsection (1) of this section shall not apply to so much of that damage as has not been made good at the date of the notice to treat ; and

(b) where section seventeen of the War Damage Act, 1943 (which provides that value payments in the case of requisitioned land are to be computed by reference to the state of the land before the requisition) applies, subsection (1) of this section shall not apply to any change (whether for the better or the worse) occurring in the hereditament in question which, under the said section seventeen, affects the amount of the value payment. [887]

(6) In the last two preceding subsections, expressions have the same meanings as they have for the purposes of Part I of the War Damage Act, 1943. [888]

(7) The preceding provisions of this section shall not apply in relation to any such supplement to compensation as is provided for in Part II of the Town and Country Planning Act, 1944, but, in considering whether, in the case of any interest in land, any such supplement can be made and, if so, what can and should be the amount thereof, any changes in the land attributable directly or indirectly to, or to a combination of, any of the factors mentioned in subsection (1) of this section shall, to such extent as is reasonable in the case of that interest, be left out of account. [889]

(8) The preceding provisions of this section shall apply to compensation for the acquisition of an easement or restrictive right or for the discharge or modification of a restriction subject to the following adaptations, that is to say—

(a) for the references to the land acquired there shall be substituted references to the land the value of which is diminished by the acquisition, discharge or modification ; and

(b) the proviso to subsection (1) shall not apply ; and

(c) the last preceding subsection shall not apply and for the purposes of Part II of the Town and Country Planning Act, 1944, the compensation shall be treated as if it were compensation for damage sustained, within the period of five years from the commencement of that Act, by reason of land being injuriously affected by the execution of works. [890]

Sub-s. (1) : “ *In assessing the compensation.* ”—This will be under the Acquisition of Land (Assessment of Compensation) Act, 1919. Modifications, applying until November 17, 1949, to acquisitions by a government department or local or public authority, and mainly directed to insistence on a reference to prices current at March 31, 1939, in making assessments, were made in this Act by the Town and Country Planning Act, 1944, Part II. Accordingly, in all cases of acquisition by Ministers, government departments, local or public authorities, the 1919 Act must now be read subject both to (a) the Town and Country Planning Act, 1944, Part II, and (b) the present Act, Part VIII.

Sub-s. (1) (b) : “ *Any work done.* ”—This is defined by s. 59 (2), *post*. If the work was done by a person interested in the land then sub-s. (2), *supra*, will apply, and account will be taken of resultant increase in value.

“ *The acquiring authority.* ”—This would include the local authority, or combination of local authorities, and, presumably, the drainage board mentioned in the previous section.

Sub-s. (1), proviso : " Compensation for injurious affection of land other, etc."—The proviso only applies to the assessment of compensation for injurious affection of land other than the land acquired. It permits account to be taken of the actual state and circumstances (so far as expected to persist) at the date of the notice to treat of the land acquired.

Sub-s. (3) : " Payment in respect of the value of any works."—See s. 10 (1), ante, whereby the Commission may report that land sought to be acquired ought not to be so acquired if such a payment is made. As to the consequences of an undertaking to make such a payment, see s. 54, post. " Works " are defined by s. 59 (1), post. This subsection entitles account to be taken of increase of value attributable to the works, notwithstanding sub-s. (1), supra.

Sub-s. (4) : " Payment of cost of works . . . for making good war damage."—See s. 6 (1) (a) of the War Damage Act, 1943, which describes this payment as follows :—

" A payment of cost of works, being a payment of an amount determined by reference to the cost of works executed for making good the damage, as provided by section 8 (amount of payment of cost of works) of this Act."

Sub-s. (4), proviso : " The permissible amount . . . of cost of works."—This is defined by the War Damage Act, 1943, s. 8 (2), as meaning " the amount that is payable by virtue of this subsection (i.e., the said s. 8 (2)) or that would have been payable if this subsection had had effect in relation to the payment." If the war damage is made good by reinstating the hereditament in its pre-damage form, the amount of the payment is an amount equal to the proper cost of the works executed for the making good thereof.

*Sub-s. (5) : " Hereditament which has suffered war damage."—S. 2 (1) of the War Damage Act, 1943, defines " war damage " and s. 5 (1), *ibid.*, provides that the word " hereditament " describes war damaged land which constitutes a unit, as dealt with by the War Damage Commission for the purposes of Part I of the Act.*

S. 17 of the War Damage Act, 1943, referred to in sub-s. (5) (b) is as follows :—

" Where a hereditament wholly comprised within requisitioned land sustains, during the period of requisition, war damage such that a value payment becomes payable, the amount of that payment shall be computed as if in section ten of this Act and paragraph 2 of the Second Schedule thereto there had been substituted, for references to the state in which the hereditament was immediately before the occurrence of the damage, references to the state in which it was immediately before the beginning of the period of requisition."

42. Adjustment where compensation paid or payable under Compensation (Defence) Act, 1939, or otherwise.—(1) Such adjustment shall be made in any compensation to which this Part of this Act applies as may be just having regard to any payment of, or right to, compensation by reason of the exercise of emergency powers. [891]

(2) Any such adjustment may, if the arbitrator thinks fit, take the form of a direction that the compensation to which this Part of this Act applies which is payable to any person shall be wholly or partly conditional on his relinquishing, to such extent as is specified in the direction, any right to compensation by reason of the exercise of emergency powers. [892]

43. Forfeitures.—Where by reason of the exercise of emergency powers any interest in land has become or might become forfeited or liable to forfeiture, any compensation to which this Part of this Act applies shall be determined as if no such forfeiture or liability to forfeiture had arisen or might arise. [893]

44. Repeal of certain provisions of Agriculture (Miscellaneous Provisions) Acts, 1941 and 1943.—Subsections (3) and (4) of section nine of the Agriculture (Miscellaneous Provisions) Act, 1941, paragraph 3 of the Fourth Schedule to that Act, and paragraphs 3 and 4 of the Second Schedule to the Agriculture (Miscellaneous Provisions) Act, 1943 (being provisions applicable to compulsory purchases of land under those Acts which are rendered superfluous by the provisions of Part II of the Town and Country Planning Act, 1944, and this Part of this Act), are hereby repealed. [894]

General note on s. 44.—The Solicitor-General on May 3, 1945 (410 H. of C. Official Report 1691) summarised this section as follows :—

" This short (Section) deals with subsections (3) and (4) of section 9 of the Agriculture (Miscellaneous Provisions) Act, 1941, and certain other provisions of that Act, and of the similar Act of 1943. It is intended to clarify the legal position as to purchases under these two Acts. They both provide, in effect, for the reduction of compensation in order to set off appreciation due to the emergency, for compensation being assessed by reference to the condition of the land taken at the date of its requisitioning under the Defence Regulations, and for the adjustment of compensation, having regard to any compensation paid under the Compensation (Defence) Act in respect of the requisitioning. The 1941 Act also has a provision about war damage. All these matters now fall to be dealt with under Part II of the Town and Country Planning Act, 1944, and Part VIII of the present (Act). There is no great difference between the provisions, and they represent the later and more considered view of Parliament in dealing with the matter. I do not think it would be a hardship, but only logical and right that the later provisions should prevail."

PART IX

AMENDMENTS OF COMPENSATION (DEFENCE) ACT, 1939

45. Increase in rental compensation under section 2 of Compensation (Defence) Act, 1939.—(1) Where, before the passing of this Act, possession has been taken of any land in the exercise of emergency powers and the compensation payable in respect thereof under paragraph (a) of subsection (1) of section two of the Compensation (Defence) Act, 1939, has (whether by agreement or otherwise) been determined by reference to a level of rental values which is both—

- (a) less than that obtaining in respect of comparable land on the thirty-first day of March, nineteen hundred and thirty-nine; and
- (b) less than the level of rental values obtaining in respect of comparable land on the appointed day,

any compensation payable under the said paragraph in respect of the taking of possession of the land which accrues on or after the appointed day shall be determined by reference to the level of rental values obtaining in respect of comparable land on the said thirty-first day of March or that obtaining in respect thereof on the appointed day, whichever is the lower, and the compensation shall be determined accordingly:

Provided that this section shall not apply in relation to any land unless, not later than six months after the appointed day or after the end of the period for which possession of the land is retained in the exercise of emergency powers, whichever is the later, a person who, as at some date not earlier than the appointed day, would be entitled to occupy the land but for the fact that possession thereof is or was so retained, gives notice in such form and manner and to such authority as may be prescribed by rules made by the Treasury under the said Act that he desires that this section should apply in relation to the land. [895]

(2) In this section the expression "the appointed day" means such day (not later than the end of the war period) as the Treasury may appoint. [896]

General note on s. 45.—The Financial Secretary to the Treasury in answering criticisms that this section did not permit compensation rental to go beyond March, 1939, value, stated on May 3, 1945 (H. of C. Official Report 1699):—

"This (section) has not been received with quite the enthusiasm that I had anticipated. The (section) does give a good deal. On the application of a person whose property has been requisitioned, it enables a revision of the rent to be made in an upward direction. It does not . . . automatically re-assess all requisition rents. To my mind that might, for the property owner, be a very unfortunate thing to do in many cases. I know of quite a number of country houses which are so large that they are never likely to be lived in again and for which the owners are now receiving a good rent. If that rent had to be revised on the basis of the current value, they would surely obtain something substantially less. . . .

The other point to which my hon. Friends object is the fixing of the 1939 ceiling. Where requisition is prolonged after an appointed day, there will be scope for an upward revision of the rent, but my hon. Friends, although I presume they are grateful for that, say it does not go sufficiently far. They say we should allow the new rent to be fixed at the current value if that is higher than the 1939 value. That would seem to me to conflict with the policy which the Government have adopted ever since the outbreak of war in relation to a number of Acts under which land may be acquired. The matter has been discussed in the House on innumerable occasions, and, as hon. Members know, all purchases of land for public purposes now take place under Part VIII (this is an error, it should be Part II) of the Town and Country Planning Act (i.e., of 1944, see Part III, *post*, p. 189) and for the next five years the 1939 ceiling has been fixed. It seems to me that it would be unreasonable in the one case to have the 1939 ceiling for acquisition, but in the case of mere requisition, in respect of which a rent is payable, to allow the rent to soar up to a figure which might be of a purely temporary character caused by everybody wanting to go to a particular seaside resort at a certain time. It seems to me that if we have the 1939 ceiling for the acquisition of land, we must also have it for the leasing of property, and it would be quite inconsistent for the Government to do other than they have done in this (section). But this (section) will confer a very substantial benefit on large numbers of people whose property was requisitioned in 1940 in seaside towns, when many of the people had cleared out on account of the fear of invasion and when rentals were at a very low level. I ask my hon. Friends to accept a gift for what it is worth."

"The appointed day."—The Requisitioned Land (Increase of Compensation) (Appointed Day) Order, 1946 (S. R. & O., 1946, No. 128) provides that Feb. 24, 1946, shall be "The Appointed day" for the purposes of this section.

Summary of section : 1. Where the section applies.—This is where compensation payable in respect of land requisitioned before June 15, 1945, under the Compensation (Defence) Act, 1939, s. 2 (1) (a), has been determined by reference to a level of rental values which is *both* (a) less than that obtaining in respect of comparable land on March 31, 1939 ; and (b) less than the level of rental values obtaining in respect of comparable values on the "appointed day."

2. What the section does.—It provides that compensation accruing on or after the "appointed day" shall be determined by reference to the *lower* of the following levels of rental values, i.e. (a) that obtaining in respect of comparable land on March 31, 1939, or (b) that obtaining in respect of the land itself on the "appointed day."

3. When the section will operate.—It will only operate if the person entitled to compensation in respect of the land in respect of its being still requisitioned at a date not earlier than the "appointed day" but for the requisitioning gives notice in the prescribed form and manner that he desires this section should apply to the land ; and this notice must be given not later than six months after the *later* of the following dates, viz. (a) the "appointed day," or (b) the end of the period of possession under emergency powers.

46. Effect on compensation of reservation of rights under Part VI.—

Where any land is in the possession of a Minister or of a person occupying or using it under the authority of a Minister and the Minister by a notice served in accordance with the provisions of Part VI of this Act reserves his rights thereunder to remove works constructed or things placed on, over or below the surface of the land or to do other work for the purpose of restoring the land—

(a) on the land ceasing to be in the possession of a Minister or person occupying or using it under the authority of a Minister, compensation shall not be payable under paragraph (b) of subsection (1) of section two of the Compensation (Defence) Act, 1939, in respect of the damage, if any, done to the said land ; but

(b) the provisions of section three of the said Act shall apply as if the damage had been damage to the land by work done thereon in the exercise of emergency powers while it was not in the possession of a Minister or person occupying or using it under the authority of a Minister. [897]

Effect of section.—The effect of this section is that where the Minister, while still in possession of land, reserves his rights to remove works for the purpose of restoring the land, then on his giving up possession, compensation will not be payable by way of a payment for the cost of making good damage to the land (i.e., s. 2 (1) (b) of Compensation (Defence) Act, 1939), but will be payable, if at all, by way of compensation for the doing of work on land (i.e., s. 3, *ibid.*).

By notice served . . . reserves his rights . . . to remove works, etc.—This refers to s. 29 (Removal of works and restoration of land), *ante*, and to s. 30 (Duration of powers under Part VI). Sub-s. (2) of this latter section generally prohibits the exercise of the Minister's powers under s. 29 after the land leaves the Minister's possession ; but the proviso thereto enables the Minister to preserve his rights under s. 29 by service of a notice on the person entitled to receive rent or compensation in respect of the land. This must be done by the Minister while the land is still in his possession, or that of a person authorised by him.

Paragraph (a) : Compensation (Defence) Act, 1939, s. 2 (1) (b).—The paragraph provides for the payment in respect of requisitioned land of "a sum equal to the cost of making good any damage to the land which may have occurred during the period for which possession thereof is so retained, etc."

Paragraph (b) : "S. 3 of the said Act."—I.e., the Compensation (Defence) Act, 1939. The section referred to sets out the general rules for the payment and ascertainment of compensation in respect of the doing of work on land.

47. Compensation under section 2 of Compensation (Defence) Act, 1939, for removal of fixed machinery or plant.—Where the damage in respect of which a sum falls, or would but for this section fall, to be paid under paragraph (b) of subsection (1) of section two of the Compensation (Defence) Act, 1939, consists wholly or in part of the removal of fixed machinery or plant, such reduction, if any, in that compensation shall be made as may appear to the General Claims Tribunal to be just having regard to the way in which the machinery or plant has in fact been dealt with, the likelihood of the machinery or plant being in fact replaced on the land and the reasonableness of replacing it thereon, and any other circumstances which may appear to the Tribunal to be relevant :

Provided that nothing in this section shall authorise the making of any reduction if the making thereof would be inconsistent with any provision of any such agreement as is mentioned in section fifteen of the said Act. [898]

General note on s. 47.—The Solicitor-General on May 3, 1945 (410 H. of C. Official Report 1690) summarised the effect of the section as follows:—"This (section) deals with a short and simple point. In many cases where factories have been requisitioned it has been necessary to remove fixed machinery from the factories and place it elsewhere, or it may be, store it elsewhere, and as that is a legal part of the land, it comes into the question of compensation. The Committee will readily appreciate that it might not have the value which the machinery on the site would have and, therefore, we suggest that it should go to the general claims tribunal to decide what the value is, and what the compensation should be, according to the criteria which are laid down in the (section). In certain cases agreements have been come to and in these cases we do not want the agreements disturbed and so the proviso is inserted in order to keep them safe."

"*General Claims Tribunal.*"—This Tribunal is that constituted by s. 8 (3) of the Compensation (Defence) Act, 1939, whose rules and general procedure are as laid down by the Compensation (Defence) General Tribunal Rules, 1939.

"*Agreement . . . mentioned in s. 15.*"—S. 15 of the Compensation (Defence) Act, 1939, generally preserves the effect of agreements for making payments in respect of the doing of anything on behalf of His Majesty in the exercise of emergency powers.

48. Successive works to be dealt with as one.—(1) For the purposes of section three of the Compensation (Defence) Act, 1939, the doing on any land of work to which that section applies, or would apply if the annual value of the land were diminished by reason of the doing of the work, shall be treated as a single operation with the doing of any other such work (whether before or after) except—

(a) work done before in respect of which any person has, by virtue of subsection (3) of that section or by virtue of any agreement, become entitled to receive from the Crown a lump sum by way of compensation; and

(b) work done before consisting of the construction of works in respect of which an amount has been paid to the Minister under Part II of this Act in pursuance of a report of the Commission;

and, on the doing of the later work, any award by the General Claims Tribunal of compensation under that section in respect of the earlier work may, except as respects compensation accruing before the doing of the later work, be varied accordingly on the application of the Crown or of any other person interested:

Provided that the power to vary awards conferred by this subsection shall not apply to any award made before the passing of this Act in respect of any land, unless (whether before or after the passing of this Act) further work to which the said section three applies has been done on that land since the doing thereon of the latest work to which any such award relates.

[899]

(2) Where during the war period any works have been constructed or other thing placed in, on or over any land by or by arrangement with a Minister otherwise than in the exercise of emergency powers, then, unless it has been expressly agreed that the Crown is to have no interest in the works or thing so constructed or placed, or the works or thing have or has been so constructed or placed in the exercise of powers conferred by any Act, the preceding subsection shall have effect as if the construction or placing were work done on the land in the exercise of emergency powers. [900]

Sub-s. (1). Compensation (Defence) Act, 1939, s. 3.—The section sets out the general rules for the payment and ascertainment of compensation in respect of the doing of work on land.

"*Sub-s. (3) of that section.*"—I.e., the Compensation (Defence) Act, 1939, s. 3 (3); which empowers the Crown, after compensation has become payable for the doing of work on land, to serve a notice of intention to discharge its liability by a lump sum payment.

"*General Claims Tribunal.*"—See notes to s. 47, *supra*. Though the word "award" is here and elsewhere used, it has been held that proceedings before the Tribunal are not arbitrations.

49. Lump sum compensation under section 3 of Compensation (Defence) Act, 1939.—Subsection (6) of section three of the Compensation (Defence)

Act, 1939 (which directs that in assessing compensation under that section it shall be assumed that the land cannot be restored to the condition in which it would be but for the doing of the work) shall not apply, and shall be deemed never to have applied, to compensation under subsection (4) thereof (which provides for the payment of a lump sum where the land is not restored by the Crown). [901]

50. Definition of work done on land.—The Compensation (Defence) Act, 1939, shall have effect and be deemed always to have had effect as if for subsection (2) of section seventeen thereof (which defines the expression “the doing of work on land”) there were substituted the following subsection—

“(2) For the purposes of this Act, the doing of work on land means the doing of any work on, over or below the surface of the land, and, in particular, includes the making of any erection or excavation, the placing of any thing, and the maintenance, removal, demolition, pulling down, destruction or rendering useless of anything, on, over or below that surface”. [902]

PART X

MISCELLANEOUS AND GENERAL

51. Saving for agreements.—(1) Where, whether before or after the commencement of this Act and—

- (a) after the construction of any government war works on any land or with a view to the construction of any government war works on any land, a lease of that land has been granted to a Minister; or
- (b) in connection with the construction of any government war works on any land, an agreement in writing has, whether during, before or after the time of the construction thereof, been made by or on behalf of any Minister providing for the grant to the Minister of the freehold of, or a leasehold interest in, that land,

no Minister shall, by reason only of the construction of the works, be entitled, as against, or as against any successor in title to, the lessor or person who is to be the grantor, as the case may be, to acquire that land or any interest in or rights over that land compulsorily under Part II of this Act. [903]

(2) Where, whether before or after the commencement of this Act and in connection with the construction of any government war works on any land, an agreement in writing has, whether during, before or after the time of the construction thereof, been made by or on behalf of any Minister with any person then having an interest in that land, which contains either—

- (a) a specific provision that, on payment of a sum or fulfilment of any other condition by that person, the works should belong to that person permanently; or
- (b) a provision specifically requiring the removal of the works or the restoration of the land,

no Minister, local authority or combination of local authorities shall, by reason only of the construction of the works, be entitled as against that person, or as against any successor in title of his to any interest in that land to which he was entitled when the agreement was made, to acquire the land or any interest in or rights over that land compulsorily under Part II or Part V of this Act, if the acquisition thereof would defeat that provision of that agreement. [904]

(3) Where, whether before or after the commencement of this Act and in connection with the construction of any government war works on any land, an undertaking in writing that the works shall be removed or the land

restored has, whether during, before or after the time of the construction thereof, been given by or on behalf of any Minister to any society or body concerned with the preservation of amenities enjoyed by the public or to any local authority, no Minister, local authority or combination of local authorities shall, by reason only of the construction of the works, be entitled to acquire the land or any interest in or rights over that land under Part II or Part V of this Act without the consent of that society or body or authority.

[905]

(4) In determining whether a Minister has power under Part II of this Act to acquire an easement over or right restrictive of the use of any land other than the land referred to in the preceding provisions of this section, the provisions of this section shall be left out of account. [906]

Sub-s. (1). “*The commencement of this Act.*”—I.e., June 15, 1945. This subsection generally preserves the effect of leases of, and contracts for the sale of, land and excludes the operation of Part II in so far as it gives powers of *compulsory* acquisition in respect of that land. A Minister may still acquire, etc., by agreement under Part II.

Paragraph (a).—This preserves the effect of a lease to a Minister of land on which there are government war works (for definition of which see s. 59 (1), *post*), or a lease granted with a view to the construction thereof. The presence of the works will not entitle the Minister, as against the lessor or his successor in title, to acquire the land compulsorily under Part II of the Act. See s. 34 (2), *ante*, as to the power of a Minister to acquire reversions on leases granted to him, as therein provided.

Sub-s. (2).—This subsection preserves the effect of agreements providing (a) for the transfer of works to the landowner on his making a payment or fulfilling some other condition, or (b) for their removal or the restoration of the land. It excludes the operation by reason only of the construction of the works both of Part II (with respect to a Minister) and Part V (with respect to a local authority), in so far as those respective Parts give powers of *compulsory* acquisition in respect of the land. Both Minister and local authority may still acquire by agreement.

Sub-s. (3).—This subsection preserves the effect of written undertakings to remove works or restore land given to the societies, bodies or local authorities mentioned. It excludes the operation, by reason only of the construction of the works, of Part II (with respect to a Minister) and Part V (with respect to a local authority), in so far as those respective Parts give *any* powers of acquisition, unless the society, body or authority so consents.

General note on s. 51.—The Financial Secretary to the Treasury on May 3, 1945 (410 H. of C. Official Report 1679) stated :—“During the Second Reading Debate, fears were expressed that the provisions of this Bill might be operated so as to override binding undertakings and contracts entered into by Ministers, as to the removal of works and so forth, after the expiry of the war period. This (section) is designed to prevent anything of that kind occurring, and is drafted so as to cover the various classes of case which might arise.”

And again on May 30, 1945 (411 H. of C. Official Report 289), he stated :—“The purpose of the (section) was to prevent the (Act) being used to override written agreements given at the time of requisitioning. My hon. Friend pointed out that the (section) covered agreements with persons having an interest in the land ; but, in his view, it did not go far enough, because there were cases where undertakings had been given in writing to societies interested in amenity questions, to local authorities, and possibly to other similar bodies. We have drafted this amendment (i.e., sub-s. (3), *supra*), to meet my hon. Friend’s point.”

52. Power of Ministers to defray cost of rehabilitation of land in certain circumstances.—(1) Where land has been damaged by government war work done thereon or by government war use thereof and either—

- (a) a person has, in connection with proposals for the acquisition of the land by virtue of Part II of this Act, given an undertaking in pursuance of a report of the Commission to deal with the land in a particular manner with a view to the total or partial rehabilitation thereof ; or
- (b) in the opinion of a Minister it is expedient in the public interest that the land should be dealt with in a particular manner with a view to the total or partial rehabilitation thereof,

the Minister may undertake, either absolutely or subject to such conditions as he may specify, to make good to any person interested in the land the whole or any part of any expenses incurred by that person in dealing with the land in that manner, in so far, in a case to which section two of the Compensation (Defence) Act, 1939, applies, as those expenses exceed any sum paid or payable under paragraph (b) of subsection (1) of that section in respect of the damage. [907]

(2) For the purposes of section three of the Compensation (Defence) Act, 1939, any work the expenses of which are made good under this section shall be deemed to have been done by a person acting on behalf of His Majesty. [908]

Sub-s. (1). "Undertaking . . . with a view to . . . rehabilitation."—This refers to s. 10 (2), *ante*, under which the Commission may report that the land ought not to be acquired by the Minister under Part II if a person with sufficient rights in the land and other relevant land gives him a written undertaking to rehabilitate the land.

General note on s. 52.—The Chancellor of the Exchequer on February 13, 1945 (408 H. of C. Official Report 77) made the following observations on this section :—" I doubt whether there is any precedent for the provisions of that clause. What it says is that if the amount payable in compensation under the law, as I have described it, on the return of land to the owner, would not be sufficient to restore it to its previous condition, the Government may pay still more money to the owner to provide for such restoration."

53. Provision of land in lieu of land acquired under Defence Acts.—(1) Where a Minister proposes to acquire any land under the Defence Acts, he may acquire under those Acts by agreement any land with a view to the exchange thereof for all or any of the first-mentioned land :

Provided that, where the first-mentioned land consists of or includes the whole or any part of any common to which the public have rights of access or of any open space, the power conferred by this subsection shall be extended so as to authorise the purchase of land with a view to its being substituted for the first-mentioned land otherwise than by way of exchange. [909]

(2) Where a Minister provides land in substitution for land acquired by him under the Defence Acts which is or forms part of a common, open space or fuel or field garden allotment, he may by order provide for vesting the first-mentioned land in the persons in whom the second-mentioned land was vested, subject to the same rights, trusts and incidents as attached to the second-mentioned land :

Provided that where the land is provided otherwise than by way of exchange, the persons in whom the land is to be vested shall be such as may be specified in the order and the rights, trusts and incidents to which the land is to be subject shall be such as may be so specified, being rights, trusts and incidents which in the opinion of the Minister are as nearly as may be the same, so far as regards the rights of the public, as those which attached to the land acquired. [910]

(3) Any reference in this Act to the power to acquire land by virtue of Part II thereof shall be deemed to include a reference to any power to acquire land by virtue of this section. [911]

Sub-s. (1), proviso.—For protection given to commons, under the present Act, see ss. 11 (5) and 12, *ante*. This proviso relates only to a common "to which the public have rights of access"; the same limiting words were inserted in the original Bill but have been deleted from the Act. See s. 59 (1) for definitions of "common" and "open space." The proviso deals with the case where the *acquired* land includes a common, etc.; where the *substituted* land includes a common, etc., see sub-s. (2), *supra*.

Sub-s. (2), proviso. "In the opinion of the Minister."—See notes to s. 2 (3), *ante*, under the heading "as the Commission think fit."

Sub-s. (3).—Accordingly, *semble*, s. 14, *ante*, would apply to limit the duration of the exercise of powers under the present section to two years from the end of the war period; s. 40, *ante*, and therefore Part VIII would not apply to the assessment of compensation for the reason that the present section confers a power of acquisition by agreement only.

The Chancellor of the Exchequer on May 2, 1945 (410 H. of C. Official Report 1438) explained the object of this section in these terms :—"The point on which my hon. and learned Friend desired an assurance concerns the question of the power to acquire alternative land in place of the common land which may be taken under the (Act). It is not intended that there should be compulsory power in that connection. No provision is made for compulsory acquisition of alternative land, but as my hon. and learned Friend will appreciate, it was necessary to give the Government Departments concerned, the power to acquire the land for that particular purpose. That is what the (section) does—it provides the power to acquire land." See also 410 H. of C. Official Report 1692.

54. Consequences of undertakings to pay money under Part II.—Where a payment in respect of the value of works has been made to a Minister under Part II of this Act in pursuance of a report of the Commission and possession of the land in question is nevertheless retained under emergency powers

after the date of the payment, section two of the Compensation (Defence) Act, 1939 (which relates to compensation for the requisition of land), and section seventeen of the War Damage Act, 1943 (which provides that value payments in the case of requisitioned land are to be computed by reference to the state of the land before the requisition), shall, notwithstanding anything in the provisions of this Act, have effect as if a new period of requisition had begun on the date of the payment. [912]

"Works."—This is defined in s. 59 (1), *post*.

"Under Part II."—This refers to s. 10 (1), *ante*, under which the Commission may report that the land ought not to be acquired if any interested person pays to the Minister a specified sum in respect of the value of the works.

"Emergency powers."—This expression is defined in s. 59 (1), *post*.

55. Amendment of procedure where land is purchased by a drainage board.

—Where a drainage board proposes to purchase under the Land Drainage Act, 1930, land which is in their possession by virtue of an exercise of emergency powers or is, by virtue of an exercise of emergency powers, being used by them for the purposes of that Act, the Minister of Agriculture and Fisheries, if he thinks fit, may—

(a) direct that paragraph 4 of the Fourth Schedule to that Act (which relates to the publication and service of notices of orders authorising the compulsory acquisition of land) either shall not apply or shall apply subject to such modifications as may be specified in the direction;

(b) confirm the order authorising the acquisition of the land without causing a public inquiry to be held, notwithstanding that the case is not one where the objectors agree that the questions raised relate exclusively to matters which could be dealt with by the arbitrator to whom questions of disputed compensation are to be referred under the order. [913]

General note on s. 55.—The Solicitor-General stated on May 3, 1945 (410 H. of C. Official Report 1692):—"This (section) refers to purchases by a drainage board of land which has been requisitioned by them during the war, and which is in substantially the same position as purchases by a local authority of similar land. Provision is made for relaxation of the requirements for the service of notices and public inquiries where, in effect, the use of the land has already been decided by what has been done under emergency powers. Although a drainage board is not, technically, a local authority, as has been pointed out earlier to-day, we think that the same considerations should apply to drainage boards, and that they should be in the same position."

"Drainage board."—This is defined in s. 59 (1), *post*.

Land Drainage Act, 1930.—This Act does not apply to Scotland or Northern Ireland; see *ibid.*, s. 84 (1). For definitions of "drainage," "drainage authority," "land," see *ibid.*, s. 81. Land under this Act "includes water and any interests in land or water and any easement or right in, to or over land or water." A drainage body may be authorised to purchase land compulsorily thereunder by means of an order submitted to the Minister of Agriculture and confirmed by him; *ibid.*, s. 45.

Paragraph (a).—The Land Drainage Act, 1930, Schedule IV, contains provisions as to the compulsory acquisition of land by Drainage Boards. These provisions are applied by *ibid.*, s. 45, power to buy, sell or exchange land, and by s. 76, power to buy, etc., accretion of land resulting from drainage works. Paragraph 4 of that Schedule provides "The Order (i.e., the compulsory purchase order, for form of which, see appendix to the Land Drainage (Compulsory Purchase) Regulations, 1931, S. R. & O., 1931, No. 3) shall be published by the drainage board in the manner prescribed, and such notice of the order having been made as may be prescribed shall be given both in the locality in which the land is proposed to be acquired, and to the owners, lessors, and occupiers of that land."

Paragraph (b).—This refers to paragraph 5 of the Schedule referred to, *supra*, which in the circumstances here stated compels the Minister of Agriculture forthwith to cause a public inquiry to be held in the locality.

56. Provisions as to Board of Trade.

—Anything authorised by this Act to be done by the Board of Trade may be done by the President of the Board, any secretary, under-secretary or assistant secretary of the Board or any person authorised in that behalf by the President. [914]

The Board of Trade is included in the definition of "a Minister" in s. 59 (1), *post*.

The Board are given powers to certify that land to be acquired under Part II is, or is part of, industrial premises, etc., in which event a simplified and expedited procedure is provided for its acquisition; see s. 8 (5), *ante*. This latter subsection provides for a certificate on what must be in part matters of opinion and policy. S. 58, *post*, generally provides for certificates by Ministers, including the Board of Trade, on questions of fact.

57. Expenses.—(1) There shall be defrayed out of moneys provided by the Parliament of the United Kingdom—

- (a) any expenses incurred under or by virtue of this Act by any Minister (except so far as they are payable out of the Road Fund under any other Act);
- (b) any compensation payable under or by virtue of this Act by any Minister;
- (c) any increase attributable to this Act in any compensation payable by the Crown under any other Act; and
- (d) any such increase in the sums payable into the Road Fund out of moneys provided by Parliament as is attributable to the passing of this Act. [915]

(2) Any sum paid under this Act to any Minister shall be paid into the Exchequer of the United Kingdom. [916]

Sub-s. (1): Paragraph (a): "Any Minister."—See definition in s. 59 (1), *post*.

"Road Fund."—This Fund was established by the Roads Act, 1920, s. 3, for the purposes of that Act. It is subject to the control and management of the Minister of Transport.

Sub-s. (1): Paragraph (c).—This would include any increase in rental compensation by reason of s. 45, *ante*, or in lump sum compensation by reason of s. 52, *ante*, payable under the Compensation (Defence) Act, 1939.

58. Evidence.—(1) For the purposes of this Act, a certificate by any Minister as to what government war work has been done on any land, as to what government war use has been made of any land, as to what damage has occurred on any land owing to government war use thereof, as to the periods for which any land was in his possession or in that of any other Minister or in the possession of any person occupying or using it under his authority or that of any other Minister, and as to whether any specified works were constructed on, over or below the surface of any land wholly or partly at the expense of the Crown or by arrangement with any Minister, shall be evidence of the facts therein stated. [917]

(2) Every document purporting to be a certificate authorised or required by this Act and to be signed by or on behalf of a Minister or other person shall be received in evidence and shall, until the contrary is proved, be deemed to be such a certificate of that Minister or person, and in any legal proceedings (including arbitrations) the production of a document purporting to be certified by or on behalf of the Minister or person having power to give any such certificate as aforesaid to be a true copy of such a certificate shall, unless the contrary is proved, be sufficient evidence of the certificate. [918]

Sub-s. (1): "By any Minister."—I.e., as defined by s. 59 (1), *post*, and not limited to the particular Ministers given powers of acquisition under Part II, for which see s. 4 (2), *ante*, and notes thereto.

Sub-s. (2): "(Including arbitrations)."—Proceedings before the General Claims Tribunal under the Compensation (Defence) Act, 1939, are not by way of arbitrations; nor, *semble*, will be proceedings before the War Works Commission under the present Act.

59. Interpretation, etc.—(1) In this Act, except in so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green;

"the Defence Acts" means any of the provisions of the Defence Acts, 1842 to 1935, as amended, extended or applied by or under any enactment, including this Act, and includes the provisions of section seven of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of section seven of the Militia (Lands and Buildings) Act, 1873, and, in the case of the Admiralty, the provisions of sections nine to nineteen of the Admiralty Lands and Works Act, 1864;

- “Defence Regulation” means a Regulation made under the Emergency Powers (Defence) Act, 1939, or the Emergency Powers (Defence) Acts, 1939 and 1940 ;
- “drainage board” means a drainage board constituted, or to be treated as having been constituted, under the Land Drainage Act, 1930 ;
- “dwelling-house” means any such permanent building or part of a permanent building as is used as a dwelling, not being the whole or any part of a hotel or boarding-house or the whole or any part of any premises in respect of which a justices’ licence for the sale of any intoxicating liquor has been granted in accordance with the Licensing (Consolidation) Act, 1910, and is in force or is, by virtue of section ten of the Finance Act, 1942, in suspense by reason of war circumstances ;
- “emergency powers” means emergency powers for the purposes of the Compensation (Defence) Act, 1939, exercised during the war period or, in the case of powers conferred by this Act, during any period during which those powers are exercisable ;
- “fuel or field garden allotment” means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act ;
- “government war use” means, in relation to land, any use to which that land is put during the war period by or by arrangement with a Minister, or under emergency powers ;
- “government war work” means work done during the war period for war purposes by or by arrangement with a Minister or under emergency powers ;
- “government war works” means works constructed in the course of government war work ;
- “local authority” means the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London ;
- “local planning authority” means in relation to any land with respect to which a planning scheme is in force, the responsible authority under the scheme, and, in relation to other land, the interim development authority within the meaning of the Town and Country Planning (Interim Development) Act, 1943 ;
- “Minister” means a Minister of the Crown and includes the Admiralty, the Commissioners of Works, the Board of Trade and the Board of Education, but does not include a Minister of Northern Ireland ;
- “open space” means any land laid out as a public garden or used for the purposes of public recreation, or land being a disused burial ground ;
- “telegraphic line” has the same meaning as in the Telegraph Act, 1878 ;
- “war period” means the period during which the Emergency Powers (Defence) Act, 1939, is in force ;
- “war purposes” means any purposes connected with any war in which His Majesty is engaged during the war period, whether or not at the relevant time that war had begun ;
- “works” includes buildings, structures and improvements (and, in particular, underground works and telegraphic lines), and references to the construction of works shall be construed accordingly. [919]

(2) For the purposes of this Act, the doing of work on land means the doing of any work on, over or below the surface of the land, and, in particular, includes the making of any erection or excavation, the placing of any thing, and the maintenance, removal, demolition, pulling down, destruction or rendering useless of anything on, over or below that surface. [920]

(3) Any reference in this Act to an easement includes a reference to a right to support for any land or for any buildings or works and a right to withdraw support from any land or from any buildings or works, and any such right obtained under the Defence Acts shall be deemed for all purposes to be an easement. [921]

(4) Where a Minister has acquired or has power to acquire any land under the Defence Acts or would have power so to acquire any land if he did not already own it, and that land contains part of a continuous main or pipe or the whole or part of works used in connection therewith, any rights necessary for or incidental to the maintenance or use of any part of the main or pipe which is in, over or under land not owned or acquired by the Minister may, subject to and in accordance with the provisions of this Act relating to the acquisition of easements, be acquired by him as, and, if so acquired by him, shall be deemed for all purposes to be, easements for the benefit of such of the first-mentioned land as he owns or acquires :

Provided that in relation to the acquisition of any such rights, the reference in paragraph (a) of subsection (1) of section seven of this Act to easements which are in the opinion of the Minister essential to the full enjoyment of the land therein mentioned shall be construed as a reference to easements which in the opinion of the Minister are essential to the full enjoyment of the main or pipe. [922]

(5) A covenant to limit the growth of trees or other vegetation on any land shall be deemed for the purposes of this Act to confer a right restrictive of the user of that land, any reference in this Act to a right restrictive of the user of land shall be construed accordingly, and any such covenant as aforesaid obtained under the Defence Acts shall be deemed for all purposes to be a restrictive covenant. [923]

(6) Any reference in this Act to a value payment falling to be made under the War Damage Act, 1943, in respect of any damage does not include a reference to a case where such a payment would fall to be made but for the fact that the value of the hereditament in the state in which it was immediately after the occurrence of the damage is no less than its value in the state in which it was immediately before the occurrence of the damage, or, in a case where section seventeen of the War Damage Act, 1943, applies, in the state in which it was immediately before the beginning of the period of requisition. [924]

(7) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which by virtue of the Sixth Schedule to the Town and Country Planning Act, 1944, or any other enactment, is deemed to be so served. [925]

(8) The powers conferred by this Act shall be in addition to, and not in derogation of, any powers exercisable by virtue of any other Act or at common law. [926]

Sub-s. (1) : "Common."—This definition (and that of "fuel or field garden allotment," *supra*, and open space, *supra*), is identical with that given in the Town and Country Planning Act, 1944, s. 14 (10). Under that section a special Provisional Order Bill procedure is provided for the protection of commons and open spaces in respect of acquisitions under that Act.

"The Defence Acts."—While the definition includes provisions of the present Act amending, etc., any provisions of the Defence Acts, as themselves coming within the meaning of the terms "Defence Acts," the present Act constantly makes a clear distinction between acquisitions of land, etc., "under the Defence Acts" and acquisitions of land, etc., "under of Part II (of the present Act)"; thus see ss. 5 (1), 33 (2), 34, 35, 40, 53 (3), *ante*.

"Drainage Board."—This definition was necessary because technically a Drainage Board is not a local authority, for definition of which see *supra*.

"Fuel or field garden allotment."—Fuel allotments consist of lands provided under local Inclosure Acts before 1845, and derive their name from the fact that the rents received in respect of them were applied in providing poor parishioners with fuel. Field garden allotments consist of lands appropriated as allotments or field gardens for the labouring poor upon the inclosure of lands or the regulation of a common.

"Government war use."—The terms "war period," "Minister" and "emergency powers" are themselves also defined in this subsection.

"Government war work."—See last note. Note also sub-s. (2), *supra*, which further explains the meaning of the doing of work on land. For the exclusion of work of cultivation or agricultural improvement, see s. 13, *ante*.

"Government war works."—The term "works" is itself defined, *supra*, and for the term "government war work," see *supra*.

"Local authority."—It will be seen that this definition does not include a drainage board, which is therefore separately defined, *supra*.

"Ministers."—For the respective bodies, Commissioners of Works and Board of Education, should now be read the Minister of Works and Minister of Education. The definition is to make it clear that previous action taken by these bodies, before their style was changed, was action by a Minister for all the purposes of the present Act.

"Open space."—See notes to "common," *supra*.

"War period."—The Emergency Powers (Defence) Act, 1939, was allowed to lapse on February 24, 1946. The war period for the purposes of the present Act, has however, been extended by s. 5 (5) of the Supplies and Services (Transitional Powers) Act, 1945, to include, subject to certain qualifications as to the exercise of powers, any period during which that Act is in force after the expiry of the Emergency Powers (Defence) Act, 1939. The Act came into force on December 10, 1945, and is to continue in force for five years from that date, though this period may be extended.

"War purposes."—These purposes now include the purposes specified in s. 1 (1) of the Supplies and Services (Transitional Powers) Act, 1945 (*ibid.*, s. 5 (5)).

Sub-s. (2).—S. 50 of the present Act, *ante*, introduces an identical subsection into the definition section (s. 17) of the Compensation (Defence) Act, 1939, in substitution for the original subsection therein.

Sub-s. (3).—For "the Defence Acts," see sub-s. (1), *supra*. This subsection, with the extended meaning it gives to the word "easement," therefore applies in considering the application of such provisions in this present Act as s. 7 (acquisition of easements and rights) in Part II, and s. 36 (notice to treat to acquire easements and other rights) in Part VII, which modify the Defence Acts.

Sub-s. (4).—For the definition of the terms "Minister," "the Defence Acts," "works," see sub-s. (1), *supra*.

The Attorney-General on May 30, 1945 (411 H. of C. Official Report 250), explained the object of this subsection in the following terms :—"This . . . deals with the position which arises in connection with the trunk oil pipelines which have been laid down by the Government. There may be a case for acquisition, under (s. 5), of the land for the pipes or the boosting stations which are attached to them, and also for acquisition of portions of the underground strata, but in some places the pipes are over ground and cross rivers and canals, in which case (s. 5) would be inappropriate. In that case we desire to acquire easements which will secure that these sections of the pipe can be used or maintained. There is a legal difficulty in the acquisition of easements and treating these as easements, because in the case of easements you have to have a dominant tenant, but in this case we are treating the pipe as the dominant tenant and taking power to acquire the easements for the carriage of the pipe on that basis."

Sub-s. (5).—For "the Defence Acts," see sub-s. (1), *supra*. The covenants described in this subsection will therefore come within the scope of the provisions in such sections as ss. 7 and 36; see note to sub-s. (3), *supra*.

Sub-s. (6): "Value payment under the War Damage Act, 1943."—See generally War Damage Act, 1943, ss. 6 *et seq.*, and in, particular, *ibid.*, s. 7 (cases in which payment of cost of works and value payments respectively are to be made).

Sub-s. (7): "Schedule VI, Town and Country Planning Act, 1944."—This generally provides that where under that Act a compulsory purchase order providing for expedited completion has come into operation, then the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation Act, 1919, have effect as if a notice to treat had been served on every possible person.

Sub-s. (8).—A similar provision was included in the Defence of the Realm (Acquisition of Land) Act, 1916, s. 14. This has the effect of preserving, for Ministers, the prerogative powers of the Crown.

60. Application to Scotland.—(1) This Act shall apply to Scotland subject to the modifications set out in this section. [927]

(2) For any reference to the Minister of Health, to the Minister of Agriculture and Fisheries, to the Minister of Town and Country Planning, or to the Minister of Education there shall be substituted a reference to the Secretary of State; and for any reference to the High Court there shall be substituted a reference to the Court of Session. [928]

(3) For any reference to the War Agricultural Executive Committee as defined by section thirty of the Agriculture (Miscellaneous War Provisions) Act, 1940, there shall be substituted a reference to the Agricultural Executive Committee referred to in section thirty-one of that Act; for any reference to the Town and Country Planning (Interim Development) Act, 1943, there shall be substituted a reference to the Town and Country Planning (Interim Development) (Scotland) Act, 1943; for any reference to the London Gazette there shall be substituted a reference to the Edinburgh Gazette; for any reference to a local education authority there shall be

substituted a reference to an education authority; for any reference to a parish council there shall be substituted a reference to a district council; for any reference to a justices' licence for the sale of intoxicating liquor there shall be substituted a reference to a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903, for the sale of excisable liquor; and for any reference to the Licensing (Consolidation) Act, 1910, there shall be substituted a reference to the Licensing (Scotland) Acts, 1903 to 1934. [929]

(4) For references to the freehold of or to a leasehold interest in land there shall be respectively substituted references to the *dominium utile* or, in the case of land other than feudal land, the ownership of land, and to a lease of land; references to land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and to fuel or field garden allotments shall be omitted; any reference to an interest reversionary on a lease or tenancy shall be construed as a reference to the interest of the landlord in land subject to a lease; any reference to land includes a reference to salmon fishings; "arbitrator" means "arbitrator"; and "easement" includes servitude and any right to lay down, continue or maintain any pipe, sewer, drain, wire or cable on, under or over any land. [930]

(5) In section two, subsection (4) shall have effect as if subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, applied to Scotland, subject, however, to the following modifications:—

(a) for any reference to a summons there shall be substituted a reference to an order;

(b) the word "summarily" in subsection (4) shall be omitted; and

(c) for the words in subsection (5) from "made a rule" to the end of the subsection, there shall be substituted the words "enforced as if it were a recorded decree arbitral". [931]

(6) An order under section seven discharging or modifying a restriction as to the user of land or as to building thereon shall be recorded in the appropriate register of sasines. [932]

(7) In section eight, paragraph (a) of subsection (1) shall have effect as if—

(i) the words "where the land is registered land within the meaning of the Land Registration Act, 1925", were omitted; and

(ii) for the word "register" there were substituted the words "valuation roll". [933]

(8) In section ten, subsection (1) shall have effect as if the reference to the Arbitration Acts, 1889 to 1934, were omitted. [934]

(9) In section fifteen, subsection (2) shall have effect as if for paragraph

(b) there were substituted the following paragraph—

"(b) for directing that any highway to be provided or improved, or any highway provided or improved before the making of the order, as a substitute for any highway stopped up under the order, shall be maintained and managed by a county or town council and for specifying which council, shall be responsible for such maintenance and management". [935]

(10) For section twenty-seven the following section shall be substituted:—

"(1) The following provisions of the Town and Country Planning (Scotland) Act, 1932, that is to say, Part III of the First Schedule, Part I of the Third Schedule (except paragraph 2 and sub-paragraph (iii) of paragraph 3) and paragraph 4 (except head (b) of sub-paragraph (i)) of Part II of that Schedule shall apply in relation to a purchase of land authorised under this Part of this Act subject to the following modifications:—

- (a) for references to the Department of Health for Scotland and to the responsible authority there shall be substituted respectively references to the appropriate Minister and to a local authority or combination of local authorities, and anything which has to be prescribed shall be prescribed by the appropriate Minister ;
- (b) where work has been done on the land by the acquiring authority or combination of authorities, the appropriate Minister may, if he thinks fit—
 - (i) direct that paragraph 4 of Part I of the said Third Schedule (which relates to the publication and service of notices) either shall not apply or shall apply subject to such modifications as may be specified in the direction ;
 - (ii) confirm the order without causing a local inquiry to be held notwithstanding that objections (being objections not relating to matters which can be dealt with by the tribunal by whom the compensation is to be assessed) have been duly made and have not been withdrawn ; and
- (c) where any local inquiry requires to be held, the provisions of subsection (4) of section two of this Act as that subsection applies to Scotland shall apply to the inquiry in lieu of the provisions of the said Act of 1932, with the substitution of a reference to the appropriate Minister for the reference to the Commission.

(2) Nothing in the last preceding subsection shall authorise the compulsory acquisition of any land which is the site of an ancient monument or other object of archaeological interest, or which belongs to any local authority or to any public undertakers within the meaning of the Housing (Scotland) Act, 1935 ; and where any land proposed to be acquired by means of a compulsory purchase order made in pursuance of that section is situate within such distance as may be prescribed by the Secretary of State from any of the royal palaces or parks, the acquiring authority or combination of authorities shall, before submitting the order to the appropriate Minister for confirmation, send a copy of it to the Minister of Works ". [936]

- (11) For section thirty-seven the following section shall be substituted :—

" (1) If, in the opinion of the Minister, he will be unable, or unable without undue delay, to acquire any servitude or right by agreement, he may, at any time after fourteen days from the service of the notice to treat, execute and record in the appropriate register of sasines a deed conferring on himself, and, except so far as otherwise expressed, his successors in title, the servitude or right in question.

(2) A deed so executed and recorded shall be enforceable against any persons having any interest in the land affected by the servitude or right, and against any persons deriving title from them.

(3) A statement in a deed executed under this section that the requirements of subsection (3) of the last preceding section have been complied with shall be conclusive evidence that those requirements have been complied with.

(4) Where the Minister executes a deed under this section, he shall give notice of the effect thereof in such manner as is, in his opinion, best adapted for informing persons affected ". [937]

(12) In subsection (1) of section fifty-nine, for the definition of local authority there shall be substituted the following definition—

“ ‘local authority’ means a county or town council ” ;

and in subsection (5) of that section the words from “ and any such covenant ” to the end of the subsection shall be omitted. [938]

(13) A local authority shall have power to borrow for the purpose of acquiring land under Part V of this Act, and the provisions of section twenty-three of the Local Government (Scotland) Act, 1929, shall apply to the power hereby conferred.

Any sums so borrowed shall be repaid within such period as the Secretary of State may fix. [939]

61. Application to Northern Ireland.—(1) This Act shall apply to Northern Ireland subject to the modifications set out in this section. [940]

(2) Parts III and V shall not apply. [941]

(3) In section two, for subsection (4) the following subsection shall be substituted :—

“ (4) The provisions of sections two hundred and nine, two hundred and ten, two hundred and twelve and two hundred and thirteen of the Public Health (Ireland) Act, 1878, shall apply to any such local inquiry as they apply to a local inquiry held under the said section two hundred and nine, but as if for references to the Ministry of Health and Local Government for Northern Ireland there were substituted references to the Commission.

The costs in relation to such inquiry, including the salary of any officer engaged in such inquiry, not exceeding five guineas a day, shall be paid by the parties concerned in such inquiry, or by such of them and in such proportions as the Commission may direct, and the Commission may certify the amount of the costs incurred, and any sum so certified and directed by the Commission to be paid by any such party shall be a debt to the Crown from such party ”. [942]

(4) For any reference to registered land within the meaning of the Land Registration Act, 1925, there shall be substituted a reference to registered land to which the Local Registration of Title (Ireland) Act, 1891, applies, and for any reference to the Acquisition of Land (Assessment of Compensation) Act, 1919, there shall be substituted a reference to that Act as amended by any Act of the Parliament of Northern Ireland. [943]

(5) In subsection (1) of section ten, for the reference to the Reference Committee there shall be substituted a reference to the Reference Committee for Northern Ireland, and for the reference to the Arbitration Acts, 1889 to 1934, there shall be substituted a reference to the Arbitration Act (Northern Ireland), 1937. [944]

(6) In subsection (3) of section thirty-six, for the reference to the London Gazette there shall be substituted a reference to the Belfast Gazette. [945]

(7) For section thirty-seven the following section shall be substituted—

“ (1) If, in the opinion of the Minister, he will be unable, or unable without undue delay, to acquire any such easement or right as aforesaid by agreement, he may, at any time after two months from the service of the notice to treat, execute a deed poll conferring on himself, and, except so far as otherwise expressed, his successors in title, the easement or right in question.

(2) A deed poll so executed shall have the like effect as a deed of grant or covenant entered into with the Minister by all necessary parties.

(3) Where any of the land adversely affected by the easement or right is registered land to which the Local Registration of Title (Ireland) Act, 1891, applies, the easement or right may, notwithstanding anything

in the said Act or rules made thereunder, be registered as a burden affecting the land and created after the first registration thereof, and may be so registered without the concurrence of the registered owner of the land or the production of the land certificate, without prejudice, however, to the power of the registering authority to order the production of the land certificate under subsection (2) of section eighty-one of the said Act.

(4) A statement in a deed poll executed under this section that the requirements of subsection (3) of the last preceding section have been complied with shall, except for the purposes of proceedings commenced not later than two years after the execution thereof, be conclusive evidence that those requirements have been complied with.

(5) Where the Minister executes a deed poll under this section, he shall give notice of the effect thereof in such manner as is, in his opinion, best adapted for informing persons affected ". [946]

(8) For any reference to the Minister of Agriculture and Fisheries or to the Minister of Town and Country Planning there shall be substituted a reference to the Secretary of State. [947]

(9) For any reference to a justices' licence for the sale of intoxicating liquor granted in accordance with the Licensing (Consolidation) Act, 1910, there shall be substituted a reference to a licence for the sale of intoxicating liquor taken out under Part II of the Finance (1909-1910) Act, 1910, and for any reference to section ten of the Finance Act, 1942, there shall be substituted a reference to section three of the Finance Act (Northern Ireland), 1936, as extended by section two of the Finance Act (Northern Ireland), 1942. [948]

(10) References to land subject to be enclosed under the Inclosure Acts, 1845 to 1882, to fuel or field garden allotments and to drainage boards shall be omitted. [949]

(11) For any reference to the Town and Country Planning (Interim Development) Act, 1943, there shall be substituted a reference to the Planning (Interim Development) Act (Northern Ireland), 1944. [950]

62. Short title.—This Act may be cited as the Requisitioned Land and War Works Act, 1945. [951]

Section 32

SCHEDULE

Enactments applied to certain Ministers

The Defence Act, 1842, except sections five, six, eight, twenty-three, thirty-seven, thirty-nine and forty-one.

The Defence Act, 1854.

The Defence Act, 1859.

Section seven of the Lands Clauses Consolidation Acts Amendment Act, 1860, except so much of the proviso to that section as requires compliance with section twenty-three of the Defence Act, 1842.

Section forty-six of the Defence Act, 1860, and the provisions thereby applied.

Section seven of the Militia (Lands and Buildings) Act, 1873.

The Defence Acts Amendment Act, 1873. [952]

LICENSING

STATUTES :—

Licensing Planning (Temporary Provisions) Act, 1945

PAGE

296

ORDERS, CIRCULARS AND MEMO-

RANDA :—

Licensing Planning Regulations,

1945

PAGE

306

STATUTES

THE LICENSING PLANNING (TEMPORARY PROVISIONS)
ACT, 1945

(8 & 9 Geo. 6, c. 15)

PRELIMINARY NOTE

This Act, which received the Royal Assent on March 28, 1945, does not introduce any permanent amendment to the existing licensing law. Its provisions will expire five years after the date on which the Emergency Powers (Defence) Act, 1939, ceases to be in force (s. 15, *post*) and are designed for temporary reconstruction purposes connected with the replanning of war-damaged areas in towns and cities.

Under the previously existing law, licensing justices had no power to replan the number and the siting of licensed premises in their particular war-damaged area, nor, as they had no control over land, were they in a position to give effect to any plans which they might have in mind. Local authorities, on the other hand, could make plans for the reducing and redistribution of licences, but these steps might not, perhaps, have been in accord with the views and experiences of the licensing justices. It therefore became necessary to reconcile and co-ordinate the functions of both local authorities and licensing justices; and the problem of how to do this was submitted to a Committee under the chairmanship of Mr. J. W. Morris, K.C., which consisted of representatives of licensing justices, local authorities, brewers, the Home Office and the Ministry of Town and Country Planning. The present Act is designed to give effect to the recommendations in the Report of that Committee.

S. 1 empowers the Home Secretary, by order, to declare any area which has sustained extensive war damage to be a licensing planning area. Such licensing planning area must consist of a licensing district, or two or more contiguous licensing districts, the whole or any part of each of which has sustained such extensive damage.

S. 2 deals with the appointment of licensing planning committees. These are to be composed of representatives, in equal numbers, of the licensing justices and the local planning authorities, with a chairman appointed by the Home Secretary. The clerk to the licensing justices of the district (or of one of the districts, if more than one are concerned) will act as secretary of any such committee.

S. 3 empowers the Home Secretary to vary his original order on the application of the licensing planning committee so as to include in the area an outside licensing district to which there has been, or is likely to be, a substantial transfer of population from the district of the planning area first designated. He may similarly exclude any area (sub-s. (2)), or vary or revoke any order made under ss. 1 or 2 (sub-ss. (3), (4)).

S. 4 deals with the general duties of licensing planning committees. The committees are to see that the number, nature and distribution of licensed premises in the area are in accord with local requirements, and that accommodation and facilities for obtaining food are satisfactory. Special regard is to be paid to any redevelopment or proposed redevelopment of the area.

Under s. 5 the licensing planning committee for any area may from time to time formulate proposals for "planning removals" (*i.e.*, the removals of licences from one house or site to another house or site within the area) or for the surrender by agreement of existing licences. Such proposals must be submitted in detail to the Minister of Town and Country Planning, and will be made available for inspection by the public. There is a right of objection, either in private before a person appointed by the Minister, or, if the circumstances appear to the Minister to require it, at a public local inquiry.

S. 6 deals with removals in licensing planning areas. It should be noted particularly that no ordinary or special removal of any licence will be authorised to any premises in a licensing planning area. Where a planning removal is provided for by a proposal under s. 5, the justices will authorise such removal to take place if they are satisfied that the proposed new premises are fit and convenient for the purpose, that the applicant is a fit and proper person to be the holder of a licence, and that any conditions specified in the proposal, as confirmed by the Minister,

have been complied with. The justices may in certain circumstances make a provisional grant of authority for removal.

S. 7 deals with the question of new licences in licensing planning areas. No new licences will be granted by the licensing justices except where the licensing planning committee have signified that they have no objection; but where such new licence is granted it will not require to be confirmed by the confirming authority.

The surrender of licences is dealt with by s. 8. Such surrendered licences will cease to be in force on the date specified in the confirmed proposals or on such later date as the licensing planning committee may allow. The functions of the compensation authority are suspended and no compensation charge may be imposed or levied under s. 21 of the Licensing (Consolidation) Act, 1910.

S. 9 empowers licensing justices to grant, on the certificate of the licensing planning committee, a "temporary premises removal," pending return to the original site or removal to premises to which the licence is to be removed in pursuance of a planning removal. The usual qualifications required under s. 38 of the Licensing (Consolidation) Act, 1910, will not apply in such a case.

Special provisions as to London are made by s. 10, the whole of the administrative County of London (except the City of London) being constituted a single planning area, with a specified licensing planning committee.

The remaining sections of the Act (ss. 11-16) contain consequential and general provisions. [953]

ARRANGEMENT OF SECTIONS

Section	Page
1. Licensing planning areas	297
2. Licensing planning committees	298
3. Variation and abolition of licensing planning areas	298
4. General duties of licensing planning committees	299
5. Submission and approval of proposals by licensing planning committees	299
6. Removals in licensing planning areas	300
7. New licences in licensing planning areas	301
8. Surrender of licences in licensing planning areas and suspension of provisions as to compensation fund	302
9. Temporary premises	303
10. London	304
11. Regulations	304
12. Disqualification of justices	305
13. Definition of "local planning authority"	305
14. Interpretation	306
15. Duration of Act	306
16. Short title and extent	306

An Act to make temporary provision as to justices' licences in war-damaged areas and certain areas related to war-damaged areas. [28th March, 1945.]

1. Licensing planning areas.—If, with respect to an area consisting of a licensing district the whole or any part of which has sustained extensive war damage, or consisting of two or more contiguous licensing districts the whole or any part of each of which has sustained extensive war damage, the Secretary of State is satisfied that by reason of the occurrence of the damage or the consequences thereof, including redevelopment which has taken place or is likely to take place in the area, it is desirable to bring into operation the provisions of this Act relating to licensing planning areas, he may, after consultation with the licensing justices for the district or districts and any local planning authority having jurisdiction in the area, by order declare that area to be a licensing planning area for the purposes of this Act. [954]

War damage.—The expression "war damage" in the Act has the meaning assigned to it by s. 2 of the War Damage Act, 1943. See s. 14 of the present Act (*post*), and the note thereto.

2. Licensing planning committees.—(1) For every licensing planning area there shall be a licensing planning committee consisting of—

- (a) a chairman appointed by the Secretary of State ;
- (b) members appointed from amongst their number by licensing justices having jurisdiction in the area ;
- (c) members appointed by local planning authorities having jurisdiction in the area. [955]

(2) The members of any such committee appointed under paragraphs (b) and (c) of the preceding subsection shall be equal in number, but save as aforesaid the number of members of any such committee shall be determined by the order constituting the area, and, where there is more than one body of licensing justices or more than one local planning authority having jurisdiction in the area, the order shall specify the number of members that are to be appointed by each body of justices or local planning authority. [956]

(3) The appointment of a member of any such committee shall be for such term as may be determined by the Secretary of State at the time of his appointment and shall be subject to such conditions as may be so determined. [957]

(4) In the event of an equality of votes on any question, the chairman shall have a casting vote, but save as aforesaid the chairman shall not have a vote. [958]

(5) The proceedings of any such committee shall not be invalidated by reason of any vacancy therein or of any defect in the appointment of a member thereof. [959]

(6) The clerk of the licensing justices for the licensing district constituting the area, or, where the area includes more than one licensing district, the clerk of the licensing justices for such one of those licensing districts as may be specified in the order, shall, by virtue of his office, be the secretary of the committee, and the committee may pay to him such remuneration as may be approved by the Secretary of State. [960]

(7) The committee, in such circumstances as may be approved by the Secretary of State, may defray expenses incurred in travelling by members or the secretary of the committee. [961]

(8) Any expenses properly incurred by the committee in connection with their business shall be defrayed by the local planning authority having jurisdiction in the area, or, where there are two or more such authorities, by those authorities in such proportions as the Secretary of State may direct. [962]

Licensing planning area.—See s. 1, *ante*.

London.—For the special conditions applying to London, and the provisions laid down for any licensing planning committee which consists of or includes the administrative County of London, see s. 10, *post*.

3. Variation and abolition of licensing planning areas.—(1) The Secretary of State may, on the application of the licensing planning committee for any licensing planning area, and after such consultation with other authorities as he may think desirable, by order include in the area any licensing district (whether contiguous or not) to which, or to any part of which, there has been, or is in his opinion likely to be, a substantial transfer of population, of industry or of other activities from the districts theretofore included in the area. [963]

(2) The Secretary of State may, after consultation with the licensing planning committee for any licensing planning area, by order exclude from the area any licensing district theretofore included therein. [964]

(3) An order under either of the two preceding subsections may make any such variation of any of the provisions of the original order constituting the

area as appears to the Secretary of State to be necessary or expedient in consequence of the inclusion or exclusion of the district. [965]

(4) If it appears to the Secretary of State that it is no longer necessary or expedient that an area should be a licensing planning area, he may, after consultation with the licensing planning committee for the area, by order revoke the order declaring it to be such an area. [966]

Object of the section.—This section empowers the Home Secretary, on the application of a licensing planning committee, and after consultation with other affected authorities, to vary an order by including in any licensing planning area a licensing district to which there has been or is likely to be a substantial transfer of population from districts already in the area. Thus, a badly damaged area may be rebuilt so that the requirements of the district are totally changed, a large part of the former population having been shifted to new housing estates in or near another part of the district. The above provision allows such new districts to be brought into the area, so that licences may be dealt with accordingly.

Conversely, by sub-s. (2), districts may be excluded by order from an area; and orders may if necessary be revoked.

4. General duties of licensing planning committees.—(1) It shall be the duty of every licensing planning committee to review the circumstances of their area and to endeavour to secure, after such consultation and negotiation as they may think desirable and by the exercise of the powers conferred on them by this Act, that the number, nature and distribution of the licensed premises in the area, the accommodation provided thereat and the facilities given thereat for obtaining food, accord with local requirements, regard being had in particular to any redevelopment or proposed redevelopment of the area. [967]

(2) A licensing planning committee shall comply with such general or special directions as may from time to time be given to them by the Secretary of State as to consultation with such authorities or bodies as may be specified in the directions. [968]

5. Submission and approval of proposals by licensing planning committees.—

(1) The licensing planning committee for any area may from time to time,—

(a) formulate proposals for the removals, hereafter in this Act referred to as “planning removals”, that is to say, for the removal, subject to and in accordance with the provisions of this Act relating to removals and subject to such conditions, if any, as may be specified in the proposals, of licences from premises in the area to other specified premises therein or to premises on specified sites therein; and

(b) formulate, with the agreement thereto of the persons interested in the premises in question, proposals for the surrender, subject to such conditions, if any, as may be specified in the proposals, of existing licences in respect of premises in the area,

and shall submit any such proposals to the Minister, together with such plans and other matter explanatory of the nature and effect of the proposals as may be prescribed or as the Minister may, in any particular case, require. [969]

(2) Where a licensing planning committee have so submitted proposals to the Minister, the committee shall publish in the prescribed manner a notice that they have submitted the proposals, naming a place at which copies thereof and of the plans and explanatory matter submitted to the Minister may be seen at all reasonable hours, and stating the time within which and the manner in which objections to the proposals may be made to the Minister. [970]

(3) If no objection to the proposals is made to the Minister within the time and in the manner stated in the notice, or if all objections so made are withdrawn, the Minister may, if he thinks fit, confirm the proposals, either with or without modification, but in any other case he shall, before confirming them, afford to any person making an objection an opportunity

of appearing before and being heard by a person appointed for the purpose by the Minister or, if it appears to the Minister that the matters to which the objection relates are such as to require investigation by public local inquiry, cause a public local inquiry to be held, and shall consider any objection not withdrawn and the report of the person before whom the objector appeared or of the person holding the inquiry, as the case may be, and may then confirm the proposals, either with or without modification. [971]

(4) Subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the summoning of witnesses, the production of documents and costs in the case of local inquiries held under that section), it shall apply to an inquiry held under this section as they apply to inquiries held under that section but with the substitution for references therein to a department of references to the Minister. [972]

Prescribed.—See s. 11, *post*.

Objections.—By sub-s. (3) the Minister of Town and Country Planning is given a discretion whether or not a public local inquiry should be held. This discretion was the result of an amendment made to the Bill in Committee (407 H. of C. Official Report 1988) when it was agreed that it was undesirable that any objections, including frivolous or obstructionist objections, should automatically necessitate a public local inquiry.

Local Government Act, 1933, s. 290 (2)–(5).—The subsections, with the references amended as requisite, are as follows:—

“(2) For the purpose of any such inquiry, the person appointed to hold the inquiry may by summons require any person to attend, at such time and place as is set forth in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make and subscribe a declaration of truth of the matter respecting which he is examined:

Provided that—

(a) no person shall be required, in obedience to such a summons, to go more than ten miles from his place of residence, unless the necessary expenses of his attendance are paid or tendered to him: and

(b) nothing in this section shall empower the person holding the inquiry to require the production of the title, or of any instrument relating to the title, of any land not being the property of a local authority.

(3) Every person who refuses or wilfully neglects to attend in obedience to a summons issued under this section, or to give evidence, or who wilfully alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he may be required to produce for the purposes of this section, shall be liable on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(4) Where the Minister causes any such inquiry to be held, the costs incurred by him in relation to that inquiry (including such reasonable sum not exceeding five guineas a day as he may determine for the services of any officer engaged in the inquiry) shall be paid by such local authority or party to the inquiry as the Minister may direct, and the Minister may certify the amount of the costs so incurred, and any amount so certified and directed by the Minister to be paid by any authority or person shall be recoverable from that authority or person as a debt to the Crown or by the Minister summarily as a civil debt.

(5) The Minister may make orders as to the costs of the parties at any such inquiry and as to the parties by whom such costs shall be paid, and every such order may be made a rule of the High Court on the application of any party named in the order.”

Error in sub-s. (4).—The word “it” in the fourth line of s. 5 (4) is redundant, and appears to be a drafting error.

6. Removals in licensing planning areas.—(1) No ordinary or special removal of any licence shall be authorised to any premises in a licensing planning area. [973]

(2) Where proposals of a licensing planning committee, as confirmed under this Act by the Minister, provide for a planning removal, then, if an application is made by the holder of the licence to the licensing justices for the licensing district in which the premises to which the removal is intended to be made are situated, the justices shall authorise the removal of the licence to those premises if they are satisfied that—

(a) the premises are fit and convenient for the purpose; and

(b) the applicant is a fit and proper person to be the holder of a licence; and

(c) any conditions specified in the proposals as confirmed as aforesaid have been complied with. [974]

(3) Where the premises to which the removal of an on-licence is intended to be made are about to be constructed or are in course of construction, the holder of the licence may apply to the said justices for the provisional grant of authority for the removal to those premises, and the justices, if satisfied with the plans submitted to them and that if the premises had actually been constructed in accordance with those plans they would, on application, have granted their authority for the removal, may make a provisional grant accordingly :

Provided that the grant shall not be of any effect until it has been declared to be final by an order of the justices made after such notice has been given as may be required by them, and the declaration shall be made if they are satisfied that the premises have been completed in accordance with the plans and are also satisfied that the applicant is a fit and proper person to be the holder of a licence and that any conditions specified in the proposals as confirmed as aforesaid have been complied with. [975]

(4) Anything authorised by the preceding provisions of this section to be done to or by licensing justices may be done to or by the licensing justices at a general annual licensing meeting, at transfer sessions or at a meeting of the licensing justices specially called for the purpose. [976]

(5) The provisions of sections twenty-nine to thirty-two of the Licensing (Consolidation) Act, 1910, as to appeal from the refusal of licensing justices to grant a special removal of a licence shall, with the necessary modifications, have effect in relation to the refusal, under this section, of licensing justices to authorise the removal of a licence, whether provisionally or otherwise, or to declare a provisional grant of authority to be final. [977]

Ordinary or special removal.—See ss. 24–27 of the Licensing (Consolidation) Act, 1910. By s. 24 (1) thereof, a removal is defined, for the purposes of that Act, as the removal of a justices' licence from the premises in respect of which it was granted to other premises.

Licensing (Consolidation) Act, 1910, ss. 29–32.—The sections deal with appeals to quarter sessions, binding over of witnesses to appear on appeals, costs on appeals, and orders for the payment of the costs of justices out of local funds.

7. New licences in licensing planning areas.—(1) No new licence shall be granted in respect of any premises in a licensing planning area unless the licensing justices are satisfied that the licensing planning committee have no objection to the grant thereof. [978]

(2) The grant of a new licence in respect of any premises in a licensing planning area shall not require confirmation by the confirming authority, and section thirty-three of the Licensing (Consolidation) Act, 1910 (which relates to the provisional grant and confirmation of licences to new premises), shall, in relation to an application in respect of any such premises as aforesaid, have effect as if references therein to the confirming authority, the confirmation of a licence and an order of confirmation were omitted. [979]

(3) Nothing in this section shall apply to the re-grant of a licence granted for a term under subsection (2) of section fourteen of the Licensing (Consolidation) Act, 1910. [980]

Licensing (Consolidation) Act, 1910, s. 33.—The section relates to the provisional grant and confirmation of licences to new premises, and for the present purpose is to be read as follows :—

“ 33.—(1) Any person interested in any premises about to be constructed or in course of construction for the purpose of being used as a house for the sale of intoxicating liquors to be consumed on the premises may apply to the licensing justices for the provisional grant of a justices' licence in respect of those premises ; and the justices, if satisfied with the plans submitted to them of the house, and that if the premises had been actually constructed in accordance with those plans they would, on application, have granted such a licence in respect thereof, may make a provisional grant accordingly.

(2) A provisional grant shall not be of any validity until it has been declared to be final by an order of the licensing justices made after such notice has been given as may be required by the justices at a general annual licensing meeting or transfer sessions. The declaration shall be made if the justices are satisfied that the house has been completed in accordance with such plans as aforesaid, and are also satisfied that no objection can be made to the character of the holder of the provisional licence.

(3) A provisional grant of a justices' licence shall be subject to the same conditions

as to the giving of notices and generally as to procedure as those to which the grant would be subject if it were not provisional, with this exception that, where a notice is required to be put up on a door of a house, the notice may be put up in a conspicuous position on any part of the premises.

(4) This section shall, with the necessary variations, extend to the provisional grant of an authority for the ordinary removal of a justices' on-licence."

Ibid., s. 14 (2).—This subsection empowers licensing justices to grant licences for a term not exceeding seven years; and applications for the re-grant of such a licence are to be treated as applications for the grants of new licences and not for renewals.

8. Surrender of licences in licensing planning areas and suspension of provisions as to compensation fund.—(1) Where proposals of a licensing planning committee, as confirmed under this Act by the Minister, provide for the surrender of a licence in respect of premises in their area, then, if such conditions as may be specified in those proposals as so confirmed have been complied with, the licence shall, by virtue of this Act, be extinguished as from such date as may be specified in those proposals as so confirmed or such later date as the licensing planning committee may allow. [981]

(2) The renewal of an old on-licence in respect of premises in a licensing planning area shall not be refused on any ground other than those specified in the Second Part of the Second Schedule to the Licensing (Consolidation) Act, 1910, and accordingly the question of the renewal of any such old on-licence shall not be referred to the compensation authority, no sum shall be paid out of the compensation fund under section forty-seven of the Housing Act, 1936, or section fifteen of the Town and Country Planning Act, 1944, in the event of the surrender of any such old on-licence, and paragraph 10 of Part I of the Sixth Schedule to the Finance Act, 1942 (which provides for the extinguishment, on payment of compensation, of an old on-licence in suspense), shall not apply to any old on-licence in respect of premises in a licensing planning area :

Provided that where the licensing justices have decided to refer to the compensation authority the question of the renewal or extinguishment of a licence and, at the time of the decision, the premises in question were not in a licensing planning area, the like proceedings may be had by virtue of that decision as might have been had if the premises had continued not to be in a licensing planning area. [982]

(3) No charge shall be imposed under section twenty-one of the Licensing (Consolidation) Act, 1910 (which relates to the compensation levy), in respect of an old on-licence renewed in respect of premises in a licensing planning area, and no charge imposed under the said section shall be levied in respect of premises which, at the date when the charge would, apart from this provision, fall to be levied, are in a licensing planning area, notwithstanding that, when the charge was imposed, they were not in such an area. [983]

Licensing (Consolidation) Act, 1910, Schedule II, Part 2.—The grounds specified therein are :—

" (A) In the case of old on-licences which are old beerhouse licences—

- (1) the ground that the applicant has failed to produce satisfactory evidence of good character ;
- (2) the ground that the house or shop in respect of which a licence is sought, or any adjacent house or shop owned or occupied by the applicant is of a disorderly character, or frequented by thieves, prostitutes, or persons of bad character ;
- (3) the ground that the applicant having previously held a licence for the sale of wine, spirits, beer, or cider, the same has been forfeited for his misconduct, or that he has through misconduct been at any time previously adjudged disqualified from receiving any such licence, or from selling any of the said articles ;
- (4) the ground that the applicant, or the house in respect of which he applies, is not duly qualified as by law is required.

(B) In the case of any old on-licences other than old beerhouse licences—

- (1) the ground that the licensed premises have been ill-conducted or are structurally deficient or structurally unsuitable ;
- (2) grounds connected with the character or fitness of the proposed holder of the licence ;
- (3) the ground that the renewal of the licence would be void."

9. Temporary premises.—(1) A licensing planning committee may, on the application of the holder of a licence in respect of premises in the licensing planning area for which the committee act, certify, in the prescribed form, that, for such period as may be specified in the certificate, the committee have no objection to the business of the applicant being carried on in such temporary premises in the area as may be so specified. [984]

(2) Where such a certificate is given, then, subject to the provisions of this section,—

- (a) an application may be made to licensing justices for the removal of the licence to the temporary premises so specified; and
- (b) a subsequent application may be made to licensing justices for the removal of the licence from those premises to premises on the site of the premises to which the licence related before the removal to the temporary premises,

in all respects as if those removals (hereafter in this section referred to as “temporary premises removals”) were planning removals for which proposals of the licensing planning committee had been duly confirmed under this Act by the Minister, and the provisions of this Act relating to the effect of the confirmation of proposals for planning removals (including the provisions as to appeal from the refusal of licensing justices to authorise removals) shall apply accordingly:

Provided that where, before the certificate is given, proposals for the planning removal of the licence have been confirmed under this Act by the Minister, but the licence has not been removed, paragraph (b) of this subsection shall have effect as if for the reference to premises on the site of the premises to which the licence related before the removal to the temporary premises there were substituted a reference to the premises to which the licence is to be removed in pursuance of the planning removal. [985]

(3) Where a licence is removed to temporary premises by virtue of a temporary premises removal, the licence shall, at the expiration of the period specified in the certificate of the licensing planning committee, or such longer period, if any, as the licensing planning committee may allow, become void unless it has previously been removed to other premises. [986]

(4) Where a certificate is given under subsection (1) of this section, section thirty-seven or, as the case may be, section thirty-eight of the Licensing (Consolidation) Act, 1910 (which relate to the qualification of premises for receiving justices’ licences) shall not, in relation to the licence in question, apply to the temporary premises specified in the certificate, but nothing in this subsection shall be construed as requiring justices to allow a removal to, or to renew a licence in respect of, any premises which in their opinion are not proper to be used, for the period specified in the certificate, or, as the case may be, for the further period allowed by the committee, for the purposes of the business of the holder of the licence. [987]

(5) Nothing in this section shall be construed as limiting the powers conferred by this Act as to the granting of planning removals, and, in the provisions of this Act conferring those powers and in the preceding provisions of this section, references to removals include references to removals to or from temporary premises from or to other premises on the same site, and references to removals in any other enactment relating to licensing shall be construed accordingly. [988]

(6) In this section, the expression “temporary premises” includes all premises, whether temporary in their nature or not, which are not intended to be used permanently for the purposes of the business in question. [989]

Object of the section.—See Preliminary Note, *ante*.

Confirmation of proposals for planning removals.—*Appeals.*—See s. 6, *ante*.

10. London.—(1) The whole of the administrative county of London, except the City of London, shall be deemed to be such an area as is mentioned in section one of this Act and the Secretary of State may, after such consultations, if any, as he thinks fit, declare it to be a licensing planning area, and, subject to the provisions of this section, the remaining provisions of this Act shall have effect accordingly. [990]

(2) Subsections (1), (2) and (6) of section two of this Act shall not apply to any licensing planning area which consists of or includes the administrative County of London, except the City of London, and—

(a) the licensing planning committee for any such licensing planning area shall consist of—

(i) an independent chairman appointed by the Secretary of State ;

(ii) twelve members appointed from amongst their number by the Court of Quarter Sessions for the County of London ; and

(iii) twelve members appointed by the London County Council ;
and

(b) the clerk of the peace of the County of London shall, by virtue of his office, be the secretary of the committee, and the committee may pay to him such remuneration as may be approved by the Secretary of State. [991]

(3) The Secretary of State may by order—

(a) provide for the appointment of sub-committees of the licensing planning committee for a licensing planning area which consists of or includes the administrative County of London, except the City of London ;

(b) authorise or require the reference by the committee to those sub-committees of such matters as may be specified in the order ; and

(c) provide for the addition to those sub-committees, for the purpose of considering and reporting on such matters as may be specified in the order, of persons nominated by such authorities or bodies concerned with the area or any part thereof as may be so specified ;

and any such order may be revoked or varied by a subsequent order of the Secretary of State. [992]

(4) The licensing planning committee for any such licensing planning area as aforesaid may, in such circumstances as may be approved by the Secretary of State, defray expenses incurred in travelling by members of any sub-committee of the committee. [993]

(5) Any expenses incurred by the Common Council of the City of London under or by virtue of this Act shall be defrayed out of the general rate. [994]

Effect of the section.—The Administrative County of London has one single planning authority in the London County Council, but there are (exclusive of the City of London) sixteen licensing districts. The effect of this section is to unite the whole of these licensing districts, together with the London County Council, into one licensing planning area. The City of London, being a separate planning area and a separate licensing district, will have the present Act applied to it in the normal way.

11. Regulations.—The Secretary of State may make regulations—

(a) with respect to the procedure to be followed, and the fees to be paid, on and in connection with applications under this Act to licensing justices ;

(b) with respect to the procedure (including quorum) of licensing planning committees and of any such sub-committees of a licensing planning committee as are appointed by virtue of an order under the last preceding section ;

- (c) for fixing the time within which and the manner in which objections to proposals of licensing planning committees may be made to the Minister ;
- (d) with respect to the keeping and auditing of accounts of the expenditure of licensing planning committees and the furnishing by those committees to the authorities by whom the expenses of the committees fall to be defrayed of statements of the expenses estimated by the committees to be likely to be incurred by them in connection with their business ; and
- (e) for prescribing anything which by this Act is required or authorised to be prescribed ;

and in this Act the expression " prescribed " means prescribed by regulations made by the Secretary of State under this section. [995]

Regulations.—Under this section the Secretary of State has made the Licensing Planning Regulations, 1945 (S. R. & O., 1945, No. 1063), *post*.

12. Disqualification of justices.—A person shall not, by reason of his membership of, or anything done by him in the course of his duties as a member of, a licensing planning committee or a sub-committee thereof, be held to be disqualified for acting as a licensing justice in relation to any matter falling to be decided by the licensing justices for the licensing planning area or any part thereof, whether under this Act or otherwise. [996]

13. Definition of " local planning authority ".—(1) In this Act the expression " local planning authority " means such a council as is mentioned in subsection (1) of section two of the Town and Country Planning Act, 1932. [997]

(2) Where there is in force an agreement made under subsection (2) of section two of the Town and Country Planning Act, 1932, or under any corresponding enactment repealed by that Act, for relinquishing in favour of the council of a county any of the powers and duties under that Act or section one of the Town and Country Planning Act, 1944, of the council of a county district, then, for the purposes of section one and of subsections (1) and (2) of section two of this Act—

- (a) the council of the county shall be deemed to be a local planning authority ; and
- (b) if the council of the county district have relinquished all their powers under the said enactments, they shall be deemed not to be a local planning authority. [998]

(3) For the purposes of section one and of subsections (1) and (2) of section two of this Act, a joint committee appointed under section three or four of the Town and Country Planning Act, 1932, or under a repealed enactment relating to town planning shall be deemed to be a local planning authority. [999]

Town and Country Planning Act, 1932, s. 2.—Sub-s. (1) thereof enacts that the local authorities for the purposes of that Act shall be, as respects the City of London, the Common Council of that city ; as respects the County of London, the London County Council ; and, as respects other places, the councils of county boroughs and county districts. Sub-s. (2) thereof enacts that the council of any county district may at any time, by agreement, relinquish any of their powers or duties under the Act to a county council.

Ibid., ss. 3, 4.—S. 3 empowers two or more local authorities to appoint a joint committee to act in the preparation or adoption of a planning scheme. S. 4 (as amended by the Minister of Town and Country Planning (Interim Development) Act, 1943) enables the Minister of Town and Country Planning at the request of one or more such authorities, to order that a joint committee shall be constituted for the like purpose.

Object of the present section.—The object of the present section is to provide that a county council shall, if necessary, be deemed to be a local planning authority in those cases where it is so deemed under the Town Planning Acts, and so to bring the present Act into line with the existing planning legislation.

14. Interpretation.—(1) In this Act, the expression “the Minister” means the Minister of Town and Country Planning, the expression “war damage” has the meaning assigned to it by section two of the War Damage Act, 1943, the expression “licence” means a justices’ licence and includes such a licence which is in suspense by virtue of section ten of the Finance Act, 1942, and other expressions which are used in the Licensing (Consolidation) Act, 1910, have the same meanings as in that Act. [1000]

(2) Save as otherwise expressly provided, the provisions of this Act are without prejudice to the provisions of any other Act with respect to licensing and licensed premises, and in particular, and without prejudice to the generality of the foregoing words, nothing in this Act shall, save as aforesaid, be construed as prejudicing the exercise as respects licensed premises of any of the powers of any authority under the enactments relating to town and country planning with respect to the acquisition of land or the control of use of land. [1001]

War Damage Act, 1943, s. 2.—Sub-s. (1) of that section defines “war damage” as:—

- “(a) damage occurring (whether accidentally or not) as the direct result of action taken by the enemy, or action taken in combating the enemy or in repelling an imagined attack by the enemy;
- (b) damage occurring (whether accidentally or not) as the direct result of measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of such damage as aforesaid;
- (c) accidental damage occurring as the direct result—
 - (i) of any precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by the enemy; or
 - (ii) of precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action;

being, in either case, measures involving a substantial degree of risk to property:

Provided that the measures mentioned in paragraph (c) of this subsection do not include the imposing of restrictions on the display of lights or measures taken for training purposes.”

15. Duration of Act.—This Act shall continue in force until the expiration of five years from the date on which the Emergency Powers (Defence) Act, 1939, ceases to be in force, and shall then expire:

Provided that on the expiration of this Act, subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), shall have effect as if this Act had then been repealed by another Act. [1002]

16. Short title and extent.—(1) This Act may be cited as the Licensing Planning (Temporary Provisions) Act, 1945. [1003]

(2) This Act shall not extend to Scotland or Northern Ireland. [1004]

ORDERS, CIRCULARS AND MEMORANDA

THE LICENSING PLANNING REGULATIONS, 1945

S. R. & O., 1945, No. 1063

August 21, 1945

I hereby, in pursuance of section 11 of the Licensing Planning (Temporary Provisions) Act, 1945, make the following Regulations:—

General Provisions

1. These Regulations may be cited as the Licensing Planning Regulations, 1945. [1005]

2.—(1) In these Regulations—

“ the Act ” means the Licensing Planning (Temporary Provisions) Act, 1945 ;

“ the committee ” means, in relation to a licensing planning area, the licensing planning committee for that area ;

“ the licensee ” means, in relation to any licensed premises, the holder of a justices’ licence in respect of those premises ;

“ the Licensing Act ” means the Licensing (Consolidation) Act, 1910 ;

“ the London Committee ” means the licensing planning committee for the area which consists of or includes the administrative County of London, except the City of London ;

“ the Minister ” means the Minister of Town and Country Planning ; and

“ the registered owner ” includes, in relation to any licensed premises, any person whose name appears on the register of licences as the owner of those premises.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1006]

3. Any notice required or authorised by these Regulations to be served on any person shall be deemed to have been duly served if it is sent by post in a prepaid letter to that person at his last known address. [1007]

General Procedure of Committees

4. Subject to the provisions of these Regulations, the committee may make standing orders for the regulation of their proceedings and business, and may vary or revoke any such orders. [1008]

5. No business shall be transacted at a meeting of the committee unless at least one-third of the whole number of members of the committee are present thereat :

Provided that in no case shall the quorum be less than five members. [1009]

6. All acts of the committee and all questions coming or arising before the committee shall be done and decided by a majority of the members of the committee present and voting thereon at a meeting of the committee. [1010]

7.—(1) Minutes of the proceedings of the committee shall be drawn up and entered in a book kept for that purpose and shall be signed at the same or next ensuing meeting of the committee by the chairman or person presiding thereat.

(2) The names of the members present at a meeting of the committee shall be recorded in the minutes. [1011]

8. Subject to the provisions of Regulation 13 of these Regulations, no person shall, unless the committee otherwise determine, have a right to be present at a meeting of the committee. [1012]

Submission of proposals to the Minister

9. Any proposals submitted under section 5 of the Act to the Minister shall be accompanied by an explanatory statement of the general effect of the proposals and a plan showing—

(a) the existing distribution of licensed premises in the part of the licensing planning area affected by the proposals ; and

(b) the effect of the proposals on the distribution of licensed premises, [1013]

10. As soon as may be after the submission of proposals to the Minister under the last preceding Regulation, the committee shall publish a notice in form number 1 in the Schedule hereto, or in a form to the like effect, in the following manner, that is to say—

- (a) by advertisement, at least once during each of two successive weeks, with an interval between each publication of at least six clear days, in one or more local newspapers circulating in the part of the licensing planning area affected by the proposals ;
- (b) by service of copies of the notice on any licensee and registered owner of licensed premises to which the proposals relate, and on such other persons, if any, as the committee may direct ; and
- (c) in such further manner, if any, as the committee may direct. [1014]

11. Any objection under subsection (2) of section 5 of the Act to a proposal of the Committee shall be made in writing and sent to the Minister within twenty-eight days from the date of the first publication in a local newspaper of the notice in accordance with the last preceding Regulation and shall specify the particular proposal or proposals to which objection is made and the grounds on which the objection is made. [1015]

Procedure on the consideration of certain matters by the Committee

12. Where the committee are about to consider whether or not they have objection to the grant of a new licence in respect of any premises in their area, or the question of the grant of a temporary premises certificate (that is to say, a certificate that they have no objection to the business of the licensee being carried on for a specified period in temporary premises) or of an extension of the period specified in a temporary premises certificate, they shall, at least fourteen clear days before the date of the meeting at which any of the said matters are to be considered, serve notice of the date, time and place of the meeting on the following persons, that is to say—

- (a) the local planning authority or authorities having jurisdiction in the area in which the premises to which the application relates are situated ;
- (b) the applicant ;
- (c) the owner of the premises to which the application relates ; and
- (d) any other persons appearing to the committee to be interested in the matter. [1016]

13. The committee shall afford to any person on whom notice has been served under the last preceding Regulation and any other interested person an opportunity of being heard either in person or by counsel, solicitor, or other representative. [1017]

14. When the committee have made their decision whether or not to object to the grant of a new licence, they shall forthwith notify the decision, in form number 2 in the Schedule hereto, to the licensing justices having jurisdiction in the area, to the authority or authorities specified in paragraph (a) of Regulation 12 of these Regulations and to the persons specified in paragraphs (b) and (c) of the said Regulation. [1018]

15. When the committee have made their decision with respect to the grant of a temporary premises certificate or an extension of the period specified in a temporary premises certificate, they shall forthwith notify the decision to the authority or authorities specified in paragraph (a) of Regulation 12 of these Regulations and to the persons specified in paragraphs (b) and (c) of the said Regulation, and, if they decide to grant a temporary premises certificate or to extend the period specified in a temporary premises certificate, shall transmit to that authority or those authorities and to those persons and

to the licensing justices having jurisdiction in the area copies of the certificate in form number 3 in the Schedule hereto, or copies of the endorsement on the certificate in form number 4 in the Schedule hereto, as the case may be. [1019]

Accounts, audit and statements of estimated expenditure

16. The accounts of the expenditure of the committee shall be made up yearly to the thirty-first day of March. [1020]

17. The accounts of the expenditure of the committee shall be subject to audit by the district auditor. [1021]

18. Not later than the thirty-first day of December in each year, the committee shall furnish to each local planning authority by whom the expenses of that committee, or a proportion of such expenses, as the case may be, fall to be defrayed, a statement of the expenses estimated by the committee to be likely to be incurred by them in respect of the year next ensuing from the first day of April. [1022]

Procedure of sub-committees of the London Committee

19. The provisions of Regulations 4 to 8 of these Regulations shall apply to the procedure of sub-committees (appointed by virtue of any Order under section 10 of the Act) of the London Committee. [1023]

20. Where a sub-committee are about to consider, for the purpose of making a recommendation to the London Committee, any matter which has, in accordance with any Order under the said section 10, been referred to them relating to an application for a new licence, for a temporary premises certificate, or for an extension of the period specified in a temporary premises certificate, a like procedure shall be had and a like opportunity of being heard afforded to persons to that prescribed in Regulations 12 and 13 of these Regulations. [1024]

Procedure and fees in connection with applications to Licensing Justices

21. Subsection (5) of section 10 of the Licensing Act (which relates to the notices to be given of the general annual licensing meeting) shall apply with respect to a meeting of the licensing justices called specially for the purpose of hearing an application under the Act for an authorisation of a planning removal or temporary premises removal, subject to the modification that the words "on the holders of justices' licences in the district and" in the subsection shall be omitted and the reference to a person who has applied for a justices' licence shall be construed as a reference to a person who has applied for an authorisation. [1025]

22. The provisions of section 27 of the Licensing Act (which relates to the notices to be given on an application for a special removal) shall apply, with the necessary modifications, to the notices to be given on an application for the authorisation, whether provisional or otherwise, of a planning removal or of a temporary premises removal, with the exception that, where a notice is required to be fixed on the door of the premises to which it is proposed to move the licence, the notice may, in the case of an application for the provisional grant of authority for the removal of the licence to those premises, be put up in a conspicuous position on any part of the premises. [1026]

23. On the authorisation of a planning removal or of a temporary premises removal the person whose licence is removed shall pay to the clerk of the licensing justices a fee of seven shillings and sixpence. [1027]

SCHEDULE

1.

Regulation 10. *Form of notice of submission of committee's proposals with explanatory statement and plan to the Minister*

Licensing Planning (Temporary Provisions) Act, 1945

Licensing Planning Committee for the Licensing Planning Area of

Notice is hereby given that on the.....day of....., 19....., the Licensing Planning Committee for the Licensing Planning Area of..... submitted proposals to the Minister of Town and Country Planning in accordance with the provisions of section 5 (1) of the Licensing Planning (Temporary Provisions) Act, 1945.

Copies of the said proposal(s) and of the explanatory statement and plan(s) relating thereto have been deposited at.....and will be open for inspection without payment of fee daily (Sundays excepted) between the hours of..... and.....

Any objection to any of the said proposals should be submitted in writing to the Minister of Town and Country Planning (*insert address*)..... within twenty-eight days from the date of this notice and should specify the proposal [or proposals] to which objection is made and the grounds on which objection is made.*

Dated this.....day of....., 19.....

.....
Secretary of the Licensing Planning Committee
for the Licensing Planning Area of.....

* If objections are made and not withdrawn, the Minister of Town and Country Planning is required, before deciding whether or not to confirm the proposals (with or without modification) either to afford any person making an objection an opportunity of being heard by a person appointed for the purpose, or to cause a public local inquiry to be held (Section 5 (3) of the Licensing Planning (Temporary Provisions) Act, 1945).

2.

Regulation 14. *Form of Certificate stating whether or not a Licensing Planning Committee have objection to the grant of a new licence*

Licensing Planning (Temporary Provisions) Act, 1945

Licensing Planning Committee for the Licensing Planning Area of.....

In pursuance of section 7 of the Licensing Planning (Temporary Provisions) Act, 1945, the Licensing Planning Committee for the Licensing Planning Area of..... hereby certify that they [do not] object to the grant of a new licence in respect of the premises [about to be constructed] at.....

Dated this.....day of....., 19.....

.....
Secretary of the Licensing Planning Committee
for the Licensing Planning Area of.....

3.

Regulation 15. *Form of Temporary Premises Certificate*

Licensing Planning (Temporary Provisions) Act, 1945

Licensing Planning Committee for the Licensing Planning Area of.....

In pursuance of section 9 of the Licensing Planning (Temporary Provisions) Act, 1945, the Licensing Planning Committee for the Licensing Planning Area ofhereby certify that they have no objection to the business of (*here insert the name of licensee*) being carried on in temporary premises at.....for a period of.....from the date of this certificate.

Dated this.....day of....., 19.....

.....
Secretary of the Licensing Planning Committee
for the Licensing Planning Area of.....

4.

Regulation 15. *Form of endorsement extending the period of a temporary premises certificate*

The Licensing Planning Committee for the Licensing Planning Area of..... hereby allow the business to be carried on in the temporary premises for a further period of.....from the expiration of the period specified in this certificate.

Dated this.....day of....., 19.....

.....
Secretary of the Licensing Planning Committee
for the Licensing Planning Area of.....

[1028]

MILK AND DAIRIES

See FOOD AND DRUGS

MOTOR VEHICLES

See ROAD TRAFFIC

NATIONAL HEALTH AND UNEMPLOYMENT INSURANCE

ORDERS, CIRCULARS AND MEMORANDA :—				PAGE			PAGE
Ministry of National Insurance (Health Insurance and Pensions) Order, 1945	-	-	-	311	Ministry of National Insurance (Unemployment Insurance and Assistance) Order, 1945	-	332
					Unemployment Insurance (Emergency Powers) (Amendment) Regulations, 1945	-	340

ORDERS, CIRCULARS AND MEMORANDA

THE MINISTRY OF NATIONAL INSURANCE (HEALTH INSURANCE AND PENSIONS) ORDER, 1945

S. R. & O., 1945, No. 316

March 21, 1945

His Majesty, in exercise of the powers conferred on Him by section six of the Ministry of National Insurance Act, 1944, and of all other powers

enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) There are hereby transferred to the Minister of National Insurance, as from the date on which this Order comes into force, all functions of the Minister of Health and the Secretary of State respectively under the National Health Insurance Acts, 1936 to 1941, the Old Age Pensions Act, 1936, the Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941, and Part II of the Old Age and Widows' Pensions Act, 1940, other than functions reserved to the Minister of Health and the Secretary of State respectively under any of those enactments as amended by the subsequent provisions of this Order.

(2) All property belonging to or vested in or held in trust for the Minister of Health or the Secretary of State in connection with the functions hereby transferred shall, by virtue of this Order and without more, be transferred to, vest in, or be held in trust for the Minister of National Insurance. [1029]

2. The Minister of National Insurance may make arrangements with the Minister of Health and with the Secretary of State or with either of them for securing that any functions transferred by this Order shall be performed on behalf of the Minister of National Insurance by the Minister of Health or the Secretary of State, as the case may be. [1030]

3.—(1) The enactments specified in the First Schedule to this Order shall have effect subject to the amendments set out in relation thereto in the second column of that Schedule.

(2) The regulations, orders and rules specified in the first column of the Second Schedule to this Order shall have effect, in the case of any provision thereof specified in the second column of that Schedule, subject to any specific amendment set out in relation thereto in the said second column, or, in the case of any such provision in respect of which there is no such amendment, subject to the following general modifications, so far as they are applicable thereto, that is to say :—

- (a) for any reference therein to the Minister of Health or to the Ministry of Health, there shall be substituted a reference to the Minister of National Insurance or to the Ministry of National Insurance, as the case may be ;
- (b) for any reference therein to the Secretary of State, there shall be substituted a reference to the Minister of National Insurance, or, where the context so requires, to the Ministry of National Insurance ; and
- (c) for any reference therein to the Minister of Health in relation to England and Wales and the Secretary of State in relation to Scotland, there shall be substituted a reference to the Minister of National Insurance in relation to England, Scotland and Wales, and for any other reference therein to the Minister of Health and the Secretary of State, or to the Minister of Health or the Secretary of State (with or without the words " as the case may require " or any similar words), there shall be substituted a reference to the Minister of National Insurance :

Provided that the references therein to the Secretary of State shall include any reference therein which, by virtue of subsection (6) of section one of the Reorganisation of Offices (Scotland) Act, 1939, is to be construed as a reference to the Secretary of State.

(3) Without prejudice to the foregoing provisions of this Article, any reference in any enactment or instrument to the Minister of Health or the Ministry of Health, or to the Secretary of State (not being an enactment mentioned in Article 1 of this Order, or a regulation, order or rule made under any such enactment) shall, so far only as may be necessary for the

purpose or in consequence of the transfer effected by this Order, be construed as, or as including, a reference to the Minister of National Insurance, or the Ministry of National Insurance, as the case may require. [1031]

4. The consultative council established for England under section four of the Ministry of Health Act, 1919, by the Ministry of Health (Consultative Councils) Order, 1919, as amended by the Ministry of Health (Consultative Councils) Amendment Order, 1923, for giving advice and assistance to the Minister of Health in connection with matters relating to National Health Insurance (Approved Societies Work), and the consultative council established for Scotland under section five of the Scottish Board of Health Act, 1919, by the Department of Health for Scotland (Consultative Councils) Order, 1935, for giving advice and assistance to the Secretary of State in connection with such matters as aforesaid, shall give such advice and assistance to the Minister of National Insurance, and accordingly the said Orders in Council shall have effect, in relation to those councils respectively, as if for any reference therein to the Minister of Health or to the Secretary of State there were substituted a reference to the Minister of National Insurance, and as if in the first-mentioned Order for the reference to the Parliamentary Secretary to the Ministry of Health there were substituted a reference to the Parliamentary Secretary to the Ministry of National Insurance. [1032]

5.—(1) Subject to the foregoing provisions of this Order, the transfer of functions effected by this Order shall not affect any instrument made, issued or given by the Minister of Health or by the Secretary of State which is in force on the date on which this Order comes into force, or any act done by or to the Minister of Health or by or to the Secretary of State which is effective on that date, and every such instrument or act shall, so far as it relates to the functions hereby transferred, have effect on and after that date as if it had been made, issued or given by, or done by or to, the Minister of National Insurance, and shall be deemed to have been so made, issued, given or done for the purposes of any enactment or instrument as amended by this Order :

Provided that nothing in this Order shall be construed as transferring to the Ministry of National Insurance any person who, on the date aforesaid, is an officer of the Ministry of Health or of the Secretary of State.

(2) In any legal proceeding pending on the date on which this Order comes into force to which the Minister of Health or the Secretary of State is a party, being a proceeding which relates to any of the functions transferred by this Order, the Minister of National Insurance shall be substituted for the Minister of Health or the Secretary of State, as the case may be, and the proceeding shall not abate by reason of the transfer.

(3) Without prejudice to the foregoing provisions of this Article, anything which has been begun by, before, or under the authority of, the Minister of Health or the Secretary of State prior to the date on which this Order comes into force may, so far as it relates to any functions transferred by this Order, be carried on or completed on or after that date by, before, or under the authority of, the Minister of National Insurance. [1033]

6.—(1) The Interpretation Act, 1889, shall apply for the purposes of the interpretation of this Order as it applies for the purposes of the interpretation of an Act of Parliament.

(2) In this Order—

- (a) the expression "functions" includes powers, rights, duties and liabilities, and the reference to the performance of functions shall be construed accordingly ;
- (b) the expression "instrument" includes any order, rule, regulation or scheme, and any judgment, award, deed, contract, agreement, arrangement, certificate, notice or other document ;

and the reference in this Order to any act done includes a reference to any decision, determination, direction, requirement, application, appointment, approval or authority given, issued or made. [1034]

7. This Order may be cited as the Ministry of National Insurance (Health Insurance and Pensions) Order, 1945, and shall come into force on the first day of April, 1945. [1035]

* * * * *

FIRST SCHEDULE

ENACTMENTS AMENDED

The National Health Insurance Act, 1936 (26 Geo. 5, & 1 Edw. 8, c. 32)

- | | |
|------------------|---|
| Section 13 | In subsection (3), after the word "regulations" there shall be inserted the words "made by the Minister of Health". |
| Section 30 | The words "of Labour" shall be omitted. |
| Section 35 | In subsection (1), after the word "regulations" there shall be inserted the words "made by the Minister of Health". |
| | In subsection (2), after the word "regulations" there shall be inserted the words "made as aforesaid"; after the word "Minister" there shall be inserted the words "of Health"; and after the word "prescribed" there shall be inserted the words "by the regulations". |
| Section 36 | After the word "Minister", in both places where that word occurs, there shall be inserted the words "of Health", and after the word "prescribed" there shall be inserted the words "by regulations made by him". |
| Section 37 | After the word "Minister" wherever that word occurs, there shall be inserted the words "of Health". |
| Section 38 | After the word "Minister", in both places where that word occurs, there shall be inserted the words "of Health"; in subsection (1), after the words "Regulations made" there shall be inserted the words "by the Minister of Health"; and in subsection (3) after the word "prescribed", in both places where that word occurs, there shall be inserted the words "by the regulations". |
| Section 39 | After the word "Minister", in both places where that word occurs, there shall be inserted the words "of Health"; and at the end of the section there shall be added the following paragraph :—
"Any regulations under this section shall be made by the Minister of Health, and the expression 'prescribed' shall be construed accordingly". |
| Section 40 | After the word "Minister", there shall be inserted the words "of Health". |
| Section 41 | In subsection (1), after the word "regulations" there shall be inserted the words "made by the Minister of Health". |
| Section 42 | After the word "Minister", in both places where that word occurs, there shall be inserted the words "of Health". |
| Section 43 | After the word "Minister", in both places where that word occurs, there shall be inserted the words "of Health"; after the words "regulations made" there shall be inserted the words "by the Minister of Health", and after the word "prescribed", in both places where that word occurs, there shall be inserted the words "by the regulations". |
| Section 64 | In subsection (1), the words "with the consent of the Minister" and the words "with the approval of the Minister" shall be omitted, and after that subsection there shall be inserted the following subsection :— |

“(1A) Any rules made under the preceding subsection by an approved society shall be made with the consent of the Minister, and any rules made under that subsection by an insurance committee shall be made—

(a) where the rules relate to the administration of medical benefit, with the approval of the Minister of Health ; and

(b) in any other case, with the approval of the Minister.”

- Section 66 In paragraph (b) of the proviso to subsection (1), after the word “ regulations ” there shall be inserted the words “ made jointly with the Minister of Health ”.
- Section 67 In subsection (1), after the words “ Joint Committee ”, in the first place where those words occur, there shall be inserted the words “ jointly with the Minister of Health ”.
- Section 70 The words “ or an insurance committee ” shall be omitted, and after the words “ district nurses ” there shall be inserted the words “ and an insurance committee may, with the consent of the Minister of Health, make the like subscriptions or donations ”.
- Section 75 In subsection (2), the words “ the Department of Health for Scotland ” shall be omitted.
- Section 91 After the word “ Minister ”, wherever that word occurs, there shall be inserted the words “ of Health ”.
In paragraph (a) of subsection (3), after the word “ prescribed ” there shall be inserted the words “ by regulations made by the Minister of Health ”.
- Section 92 In subsection (1), after the word “ regulations ” in the first place where that word occurs, there shall be inserted the words “ made by the Minister of Health ”, and in the proviso to that subsection after the word “ Minister ” there shall be inserted the words “ of Health ”.
- Section 93 After the word “ Minister ”, wherever that word occurs, there shall be inserted the words “ of Health ”, and in subsection (3) after the word “ prescribed ” there shall be inserted the words “ by regulations made by the Minister of Health ”.
- Section 94 After the word “ Minister ”, there shall be inserted the words “ of Health ”, and at the end of the section there shall be inserted the words “ by regulations made by the Minister of Health ”.
- Section 95 After the word “ Minister ”, in both places where that word occurs, there shall be inserted the words “ of Health ”, and at the end of subsection (1) there shall be inserted the following proviso :—
“ Provided that the Minister of Health shall not institute an inquiry under this subsection in respect of an alleged default relating to the administration of the benefits of deposit contributors (other than medical benefit) unless he is requested so to do by the Minister.”
- Section 96 After the word “ Minister ”, in both places where that word occurs, there shall be inserted the words “ of Health ”.
- Section 97 After the word “ Minister ”, in both places where that word occurs, there shall be inserted the words “ of Health ” and after the word “ regulations ” there shall be inserted the words “ made by the Minister of Health ”.
- Section 98 After the word “ regulations ”, in both places where that word occurs, there shall be inserted the words “ made by the Minister of Health ”, and after the word “ Minister ” there shall be inserted the words “ of Health ”.

- Section 99 After the word "regulations", in both places where that word occurs, there shall be inserted the words "made by the Minister of Health", and after the word "Minister" there shall be inserted the words "of Health".
- Section 100 After the word "Minister", in both places where that word occurs, there shall be inserted the words "of Health".
- Section 104 In subsection (3), after the word "Minister" there shall be inserted the words "of Health".
- Section 105 After the words "Regulations may be made", there shall be inserted the words "jointly by the Minister and the Minister of Health", and for the words "the Minister" there shall be substituted the words "those Ministers".
- Section 117 In subsection (1), for the words "prescribed form" there shall be substituted the words "form prescribed by regulations made by the Minister of Health".
- Section 118 For subsection (1), and for subsection (2) as amended by section four of the National Health Insurance, Contributory Pensions and Workmen's Compensation Act, 1941, there shall be substituted the following subsections:—

"(1) All sums payable in respect of the members of approved societies and deposit contributors resident in the county or county borough for the purposes of medical benefit and administration expenses in any year shall be paid or credited to the Minister of Health in such manner and at such dates in each year as shall be agreed between the Minister and the Minister of Health subject to the consent of the Treasury, and the sums so paid or credited shall be paid or credited by or on behalf of the Minister of Health to the insurance committee at the commencement of that year, or at such time or times and in such instalments and in such manner and proportions as may, with the consent of the Treasury, be prescribed by regulations made by the Minister of Health.

(2) There may, out of the funds out of which benefits are payable under this Act be applied for the purpose of meeting the cost of medical benefit, the administration expenses of insurance committees and any expenses incurred by the Minister of Health in connection with the administration of benefits, a sum at such yearly rate as may be prescribed by regulations made jointly by the Minister and the Minister of Health, but not exceeding fourteen shillings and sixpence per year in respect of each of the total number (calculated in the manner prescribed by regulations made by the Minister) of the persons who are entitled to medical benefit as being or having been members of an approved society, and there shall be paid or credited for each year to the Minister of Health on account of the cost of medical benefit and the administration expenses of insurance committees and on account of expenses incurred by that Minister in respect of the administration of benefits, sums not exceeding in the aggregate the sum applicable as aforesaid, and not exceeding as respects the administration expenses of insurance committees and as respects the expenses of the Minister of Health such sums as may be prescribed by regulations made jointly by the Minister and the Minister of Health, in respect of each of the total number aforesaid:

Provided that, if the aggregate sum paid or credited for any year to the Minister of Health under this section in respect of each of the total number aforesaid is less than the sum applicable as aforesaid in respect of each of the said total number, the balance shall be carried

forward and be treated as being applicable as aforesaid in any subsequent year."

In subsection (3), after the word "made" in the second place where that word occurs, there shall be inserted the words "jointly by the Minister and the Minister of Health".

Section 120 In subsection (1), after the word "Minister" there shall be inserted the words "of Health".

Section 122 In paragraph (c) of subsection (1), after the word "prescribed" there shall be inserted the words "by regulations made jointly by the Minister and the Minister of Health".
At the end of subsection (2), there shall be inserted the following words:—

"Any regulations under this subsection relating to medical benefit or the administration thereof shall be made jointly by the Minister and the Minister of Health, and the expression 'prescribed' shall be construed accordingly."

Section 140 In subsection (2), after the word "Minister," there shall be inserted the words "by the Minister of Health,".

Section 149 After the words "credited to", there shall be inserted the words "the Minister of Health on account of"; and after the word "prescribed" in the second place where that word occurs there shall be added the words "in regulations made by the Minister and the Minister of Health,".

Section 150 In paragraph (b) of subsection (1), after the word "Minister" there shall be inserted the words "of Health".

Section 160 In subsection (1), the words "the Secretary of State for Scotland" and the words from "together with one other person" to the end of the subsection shall be omitted.

In subsection (4), the words "the Department of Health for Scotland" and the words "the Department" shall be omitted, and for the word "any" there shall be substituted the word "either".

Section 163 In subsection (2), for the words "be decided in the prescribed manner by the Minister" there shall be substituted the words "in the manner prescribed by regulations made jointly by the Minister and the Minister of Health be decided—

(i) if and so far as the dispute relates to medical benefit (other than a dispute relating to title thereto), by the Minister of Health; and

(ii) in any other case, by the Minister".

In subsections (3) and (4), after the word "Minister" in both places where that word occurs, there shall be inserted the words "or the Minister of Health", and in subsection (4) after the word "made" there shall be inserted the words "jointly by the Minister and the Minister of Health".

Section 164 After the word "prescribed", in the first place where that word occurs, there shall be inserted the words "by regulations made jointly by the Minister and the Minister of Health".

After the word "Minister", there shall be inserted the words "or the Minister of Health", and after the word "prescribed" in the second place where that word occurs, there shall be inserted the words "by the regulations".

Section 167 After subsection (1), there shall be inserted the following subsection:—

"(1A) In relation to matters within the control of the Minister of Health, or of that Minister jointly with the Minister, he or they, as the case may be, may make regulations in accordance with paragraph (c) of the preceding subsection."

- Section 170 At the end of subsection (2), there shall be inserted the words " or the Minister of Health, as the case may be ".
- Section 171 After the word " Minister ", in the first place where that word occurs, there shall be inserted the words " or the Minister of Health, as the case may be ", and after that word in the second place where it occurs, there shall be inserted the words " or by the Minister of Health as the case may be ".
- Section 175 After the word " Minister ", there shall be inserted the words " or of the Minister of Health as the case may be ".
- Section 178 After the word " Minister ", in the first place where that word occurs, there shall be inserted the words " or the Minister of Health " and after that word in the second place where it occurs there shall be inserted the words " or the Minister of Health, as the case may be ".
- Section 180 In subsection (1), after the word " prescribed " there shall be inserted the words " by regulations made by the Minister of Health ".
- Section 183 In subsection (2), after the word " made " there shall be inserted the words " by the Minister of Health ".
- Section 183 In the proviso to subsection (1), before the words " the Secretary of State ", wherever those words occur, there shall be inserted the words " the Minister of Health, ".
- Section 184 In subsection (2), after the word " Minister " there shall be inserted the words " or the Minister of Health ".
- Section 188 At the end of subsection (2), there shall be inserted the words " by regulations made by the Minister of Health ".
- Section 190 After the word " Minister ", in both places where that word occurs, there shall be inserted the words " of Health ".
- Section 191 For the words " the Department ", there shall be substituted the words " the Minister ".
- Section 192 In subsection (1), after the word " regulations " in the first place where that word occurs there shall be inserted the words " made by the Secretary of State ".
- Section 195 In subsection (3), after the word " consent " in the first place where that word occurs there shall be inserted the words " of the Minister and ".
- Section 195 In subsection (1), for the word " Department " in the first place where that word occurs there shall be substituted the words " Minister or, in the case of any matter within his control, of the Secretary of State ", and for the word " Department ", in the second place where that word occurs, there shall be substituted the words " Minister or the Secretary of State as the case may be ".
- Section 195 In subsection (2), for the word " Department " wherever that word occurs there shall be substituted the word " Minister ".
- Section 195 In subsection (5), after the word " submitted " there shall be inserted the words " to the Minister or ", and after the word " disputes," there shall be inserted the words " the Minister or ".
- Section 198 After the word " Minister ", in the first place where that word occurs, there shall be inserted the words " or the Minister of Health "; for the word " him " there shall be substituted the words " them respectively "; and after the word " Minister ", in the second place where that word occurs, there shall be inserted the words " or to the Minister of Health, or to the Minister and the Minister of Health ".
- Section 205 For subsection (2), there shall be substituted the following subsection :—
- “(2) Subsection (2) of section fifty-eight shall have effect as though the words ‘ and insurance committee ’ were omitted therefrom and as though after the word

'Ministry' there were inserted the words 'and the Ministry shall make rules in relation to benefits administered by it'; subsection (1) of section sixty-four shall have effect as though for the words 'an approved society may and an insurance committee shall' there were substituted the words 'an approved society with the consent of the Ministry may, and the Ministry in relation to benefits administered by it shall'; subsection (1A) of section sixty-four shall not apply; section seventy shall have effect as though the words 'and an insurance committee may, with the consent of the Minister of Health, make the like subscriptions or donations' were omitted therefrom; section one hundred and forty-nine shall have effect as though for the words 'credited to the Minister of Health on account of insurance committees' there were substituted the words 'credited to the medical benefit account and to the Ministry'; subsection (2) of section one hundred and sixty-three shall have effect as though paragraphs (a), (c) and (d) were omitted therefrom, as though for the words 'by such person, society or insurance committee' there were substituted the words 'by any such society', and as though for the words from 'in the manner prescribed' to the end of the subsection there were substituted the words 'be decided in the prescribed manner by the Ministry'; and subsection (1A) of section one hundred and sixty-seven shall not apply."

- Section 221 In paragraph (m) of subsection (1), the words "of Labour" shall be omitted.
- Section 224 After the word "regulations", there shall be inserted the words "made jointly by the Minister and the Minister of Health", and at the end of the section there shall be inserted the words "by the regulations".
- Section 225 After the word "Minister", there shall be inserted the words "of Health".
- Section 226 In subsection (1) in the definition of "Medical treatment and attendance", after the word "prescribed", in the first place where that word occurs, there shall be inserted the words "by regulations made by the Minister of Health"; the word "prescribed", in the second place where that word occurs, shall be omitted; and after the word "appliances" there shall be inserted the words "so prescribed".
- In subsection (1) in the definition of "The Minister", for the words "Minister of Health" there shall be substituted the words "Minister of National Insurance".
- Third Schedule .. In paragraph 8, for the words "by the Minister" there shall be substituted the words "jointly by the Minister and the Minister of Health".
- Fourth Schedule .. In Part I, after the word "Minister", wherever that word occurs, there shall be inserted the words "of Health"; and in paragraph 2 after the word "prescribed", there shall be inserted the words "by regulations made by the Minister of Health".

The National Health Insurance (Juvenile Contributors and Young Persons)
Act, 1937 (1 & 2 Geo. 6, c. 3)

- Section 3 In subsection (2), after the word "Minister" there shall be inserted the words "or by the Minister of Health". In subsection (3), after the word "regulations" there shall be inserted the words "made jointly by the Minister and the Minister of Health"; and after the word "Minister" there shall be inserted the words "of Health".

The National Health Insurance, Contributory Pensions and Workmen's Compensation Act, 1941 (4 & 5 Geo. 6, c. 39)

- Section 8 At the end of the section, there shall be inserted the following subsection :—
 “ (5) In relation to matters within the control of the Minister of Health, or of that Minister jointly with the Minister, under the Insurance Acts or the Pensions Acts, subsection (1) of this section shall have effect as if for the reference therein to the Minister there were substituted a reference to the Minister of Health, or to both those Ministers, as the case may be.”
- Section 12 In subsection (3) after the word “ Minister ” there shall be inserted the words “ the Minister of Health or the Secretary of State ”.

The Old Age Pensions Act, 1936 (26 Geo. 5, and 1 Edw. 8, c. 31)

- Section 10 In subsection (3), for the words “ Minister of Health ” there shall be substituted the words “ Minister of National Insurance ”.
- Section 12 In subsections (1) and (4), for the words “ Minister of Health ” there shall be substituted the words “ Minister of National Insurance ”.
- Section 13 Paragraph (a) of subsection (1) shall be omitted.

Widows', Orphans' and Old Age Contributory Pensions Act, 1936 (26 Geo. 5, and 1 Edw. 8, c. 33)

- Section 28 After the word “ Minister ”, wherever that word occurs, there shall be inserted the words “ of Health ”.
- Section 33 In subsection (2), after the word “ Minister ”, in both places where that word occurs, there shall be inserted the words “ of Health ”.
- Section 34 The words “ and the Department of Health for Scotland ” and the words from “ Provided that ” to the end of the section shall be omitted, and for the words “ either of them ” there shall be substituted the word “ him ”.
- Section 38 In subsection (4), after the word “ Minister ”, there shall be inserted the words “ of Health ”.
- Section 42 In subsection (1) in the definition of “ Minister ”, for the words “ Minister of Health ” there shall be substituted the words “ Minister of National Insurance ”.
- Section 44 In paragraph (1), after the word “ Minister ” there shall be inserted the words “ of Health ”.

The National Health Insurance (Amendment) Act, 1938 (1 & 2 Geo. 6, c. 14)

- Section 1 In subsection (3), for the words “ of Health and on the Department of Health for Scotland ” there shall be substituted the words “ of National Insurance ”, and for the words “ the said Minister or Department ” there shall be substituted the words “ the Minister of Health or the Department of Health for Scotland ”.

The Old Age and Widows' Pensions Act, 1940 (3 & 4 Geo. 6, c. 13)

- Section 16 After the word “ Minister ”, wherever that word occurs, there shall be inserted the words “ of Health ”.
- Section 17 In subsection (3), after the word “ Minister ” there shall be inserted the words “ of Health ”.
- Section 19 In subsection (1) in the definition of “ Minister ”, for the words “ of Health ” there shall be substituted the words “ of National Insurance ”.

- Section 20 In paragraph (a), for the word "any", in the first place where that word occurs, there shall be substituted the word "the", after the words "Minister of Health" there shall be inserted the words "in subsection (3) of section seventeen", and the words "except in section sixteen" shall be omitted.
- Second Schedule .. The references in the first column to provisions of the Unemployment Act, 1934, shall be construed as references to those provisions as amended by the Ministry of National Insurance (Unemployment Insurance and Assistance) Order, 1945.
- In the modification of section 35 (4) of the Unemployment Act, 1934, the words from "and as if" to "Secretary of State" shall be omitted.
- In the modification of section 52 of the said Act, the words from "The section" to "the word 'their'" shall be omitted.
- In the modification of section 54 (1) of the said Act, the words from "and as if" to "Minister of Health" shall be omitted.
- In the modification of section 55 (1) of the said Act, the words "except in subsection (4) of section thirty-five and in section fifty-two" shall be omitted, for the word "any" there shall be substituted the word "the", and there shall be added at the end thereof the words "in subsection (5) of section fifty". [1036]

SECOND SCHEDULE

GENERAL MODIFICATIONS AND SPECIFIC AMENDMENTS OF REGULATIONS, ORDERS AND RULES

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| <p>Regulations, Orders or Rules</p> <p>The National Health Insurance (Additional Benefits) Regulations, 1930, S. R. & O., 1930 (No. 1061), p. 1173.</p> <p>The National Health Insurance (Approved Societies) Regulations, 1939, S. R. & O., 1939 (No. 1847), II, p. 2155.</p> | <p>Provisions subject to general modification under Article 3 (2) of this Order, and specific amendments.</p> <p>Paragraph (1) of Regulation 3.</p> <p>Paragraph (1) of Regulation 2.</p> <p>In paragraph (1) (a) of Regulation 16, as amended by the National Health Insurance (Approved Societies) Amendment Regulations, 1943, after the word "Minister" there shall be inserted the words "of Health".</p> <p>Regulation 125.</p> <p>At the end of paragraph (1) of Regulation 165, there shall be inserted the following definition :—</p> <p style="padding-left: 20px;">" 'Minister' in relation only to any dispute in England and Wales means—</p> <p style="padding-left: 40px;">(a) if and so far as the dispute relates to medical benefit (other than a dispute relating to title thereto), the Minister of Health ; and</p> <p style="padding-left: 40px;">(b) in any other case, the Minister of National Insurance."</p> <p>After Regulation 186, there shall be inserted the following regulation :—</p> <p style="padding-left: 20px;">" 186A. In this Part of these regulations, the expression 'Minis-</p> |
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The National Health Insurance (Approved Societies) Regulations, 1939, S. R. & O., 1939 (No. 1847), II, p. 2155.—*Continued.*

The National Health Insurance (Approved Societies) Amendment Regulations, 1943, S. R. & O., 1943 (No. 294), I, p. 662.

The National Health Insurance (Arrears) Regulations, 1937, S. R. & O., 1937 (No. 1023), p. 1761.

The National Health Insurance (Certificates of Exception) Regulations, 1942, S. R. & O., 1942 (No. 47), I, p. 569.

The National Health Insurance (Decision of Questions) Regulations, 1937, S. R. & O., 1937 (No. 1114), p. 1829.

The National Health Insurance (Decision of Questions) Regulations (Scotland), 1937, S. R. & O., 1937 (No. 399), p. 1840.

The National Health Insurance (Dental Benefit) Regulations, 1938, S. R. & O., 1938 (No. 1466), II, p. 2453.

ter', in relation only to any dispute, means—

(a) if and so far as the dispute relates to medical benefit (other than a dispute relating to title thereto), the Secretary of State; and

(b) in any other case, the Minister of National Insurance.”;

and in Regulations 187 to 204, for the words “Secretary of State” wherever those words occur, there shall be substituted the word “Minister”.

Second Schedule, Part II.

Fourth Schedule.

Fifth Schedule.

Ninth Schedule.

Tenth Schedule, Parts I, II and III.

Twelfth Schedule, Part I and II.

In paragraph (2) of Regulation 7, after the word “Minister” there shall be inserted the words “of Health”.

Paragraph (2) of Regulation 1.

Paragraph (3) of Regulation 1.

Paragraph (2) of Regulation 1.

First Schedule (Forms A and B).

Third Schedule.

Paragraph (2) of Regulation 1.

First Schedule (Forms A to E).

Third Schedule.

In paragraph (1) of Regulation 2, the definition of “the Joint Committee” shall be omitted; for the definition of “the Minister” there shall be substituted the following definition:—

“the Minister” in any regulation contained in Part VI of these regulations means, in relation to England and Wales the Minister of Health, and in relation to Scotland, the Secretary of State, and in any other of these regulations means the Minister of National Insurance”; and in the definition of “regional dental officer” for the words “an officer appointed by the Minister” there shall be substituted the words “in relation to England and Wales, an officer appointed by the Minister of Health, and in relation to Scotland, an officer appointed by the Secretary of State”.

In paragraph (ii) of Regulation 4, after the word “Minister” there shall be inserted the words “the Minister of Health”.

The National Health Insurance (Dental Benefit) Regulations, 1938, S. R. & O., 1938 (No. 1466), II, p. 2453.—*Continued.*

For Regulations 5 and 6 there shall be substituted the following regulations :—

“ 5.—(1) The Council shall consist of the following members :—

(a) a chairman appointed by the Minister ;

(b) twelve dentists, of whom three shall be nominated by the British Dental Association, three by the Incorporated Dental Society, Limited, three by the Public Dental Service Association of Great Britain, Limited, one shall be appointed by the Minister of Health, one by the Secretary of State and one by the Welsh Board of Health ; of the members to be nominated by the British Dental Association at least one shall be a dentist carrying on practice in Scotland ;

(c) twelve representatives of societies, of whom eight shall be nominated by such associations of societies of various types as the Minister, after consultation with the Consultative Councils for England and Scotland, may select, one shall be appointed by the Minister from amongst persons recommended by such associations as may be selected by him, being associations of societies whose business under the Act is mainly carried on in Scotland, and three shall be appointed by the Minister, being persons having special knowledge of the administration of dental benefit, one for England, one for Scotland and one for Wales ;

(d) four members, who shall be appointed jointly by the Minister, the Minister of Health and the Secretary of State from amongst their officers ;

(e) such additional members as may be appointed under the next succeeding regulation.

(2) If any body or person entitled under this regulation to nominate a member fails to do so within such reasonable time as the Minister may determine, the Minister of Health jointly with the Secretary of State in respect of a nomination mentioned in sub-paragraph (b) of paragraph (1) of this regulation, and the Minister in respect of a nomination mentioned in sub-paragraph (c) of that paragraph shall have power to appoint.

The National Health Insurance (Dental Benefit) Regulations, 1938, S. R. & O., 1938 (No. 1466), II, p. 2453.—*Continued.*

(3) Any person nominated a member of the Council under this regulation shall become a member as from the date on which the nomination is approved, in respect of a nomination mentioned in the said sub-paragraph (b) by the Minister of Health, and in respect of a nomination mentioned in the said sub-paragraph (c) by the Minister.

6.—(1) Not more than six persons having special knowledge of the provision of dental treatment for insured persons may be appointed as additional members of the Council, as provided for in paragraph (3) of this regulation.

(2) If any persons are appointed additional members of the Council, one half of the number shall be dentists and one half representatives of societies.

(3) Any appointments of such additional members shall be made as follows :—

(a) representatives of societies shall be appointed by the Minister ;

(b) (i) if only one dentist is appointed, he shall be appointed by the Minister of Health ;

(ii) if two or three dentists are appointed, one shall be appointed by the Secretary of State and the remainder by the Minister of Health."

For paragraph (2) of Regulation 7, there shall be substituted the following paragraph :—

"(2) The chairman of the Council and the members appointed jointly by the Minister, the Minister of Health and the Secretary of State from among their officers shall hold office until their appointments are terminated, in the case of the chairman by the Minister, and in any other case by those three Ministers."

In sub-paragraph (a) of paragraph (7) of the said Regulation 7, for the words "the Minister", in both places where those words occur, there shall be substituted the words "the Minister of Health or the Secretary of State, as the case may be".

In paragraph (2) of Regulation 9, for the words "of the Department of Health for Scotland" there shall be substituted the words " , in the case of dentists, of the Secretary of State, and in the case of representatives of societies, of the Minister" ; and in paragraph (4) of that regulation, after the word "Scotland"

The National Health Insurance (Dental Benefit) Regulations, 1938, S. R. & O., 1938 (No. 1466), II, p. 2453.—*Continued.*

where that word first occurs there shall be inserted the words "and one other member of the last-mentioned committee to be appointed by the Council", and the words from "and the member" to "regulation 5" shall be omitted.

In Regulation 10, for the words "the Joint Committee", there shall be substituted the words "the Minister".

Paragraph (1) of Regulation 11.

For paragraph (2) of the said Regulation 11, there shall be substituted the following paragraph:—

"(2) The Minister shall, upon such terms with respect to remuneration and otherwise as may be determined by him after consultation with the Council, place at the disposal of the Council the services of an officer of the Ministry of National Insurance having experience of National Health Insurance matters in Scotland, and such officer shall act as secretary to the executive committee for Scotland."

In paragraph (3) of the said Regulation 11, after the words "officers of" there shall be inserted the words "the Ministry of National Insurance or of".

In Regulation 12, for the words "the Joint Committee" there shall be substituted the words "the Minister".

In paragraphs (1) and (2) of Regulation 13, for the words "the Joint Committee" in both places where those words occur, there shall be substituted the words "the Minister", and in paragraph (1) the words "or the Department of Health for Scotland, as the case may be" shall be omitted.

In paragraph (1) of Regulation 14, for the words "the Joint Committee" there shall be substituted the words "the Minister".

In paragraph (2) of Regulation 15, after the word "Minister", in both places where that word occurs, there shall be inserted the words "the Minister of Health".

In paragraph (1) of Regulation 16, after the word "Minister" there shall be inserted the words "and the Minister of Health", and in paragraph (3) of that regulation, after the word "Minister" there shall be inserted the words "of Health".

In paragraph (1) (ii) of Regulation 17, after the word "Minister" there shall be inserted the words "the Minister of Health, the Secretary of State".

The National Health Insurance (Dental Benefit) Regulations, 1938, S. R. & O., 1938 (No. 1466), II, p. 2453.—*Continued.*

Paragraph (3) of Regulation 17.

In paragraph (1) of Regulation 27, after the word "Minister" there shall be inserted the words "of Health".

In paragraph (5) of Regulation 28, after the word "Minister" there shall be inserted the words "of Health".

In paragraph (1) of Regulation 29, for the words "the Joint Committee" there shall be substituted the words "the Minister"; and in paragraph (2) of that regulation, after the word "Minister" there shall be inserted the words "after consultation by him with the Minister of Health".

In paragraph (3) of Regulation 31, for the words from "the members" to the end of the regulation there shall be substituted the words "the following persons, namely, the members of the executive committee for Scotland and any persons co-opted as members of that committee under paragraph (2) of regulation 9."

In paragraph (2) of Regulation 35, for the words "by the Minister" there shall be substituted the words "in the case of dentists, by the Minister after consultation with the Secretary of State, and in any other case, by the Minister"; and in paragraph (6) of that regulation, after the word "assessors" there shall be inserted the words "and as if in paragraph (5) of regulation 28 for the reference to the Minister of Health there were substituted a reference to the Secretary of State".

In Regulation 36, for the words "the Joint Committee" there shall be substituted the words "the Minister".

In paragraph (2) of Regulation 53, after the word "Minister" there shall be inserted the words "the Minister of Health or the Secretary of State", and after the words "Secretary of" there shall be inserted the words "the Ministry of National Insurance,".

The following regulation shall be added after Regulation 53 :—

" 54.—Notwithstanding anything contained in the Ministry of National Insurance (Health Insurance and Pensions) Order, 1945, the persons who on the 31st March, 1945, were holding office under these regulations as members of the Council shall continue to hold office, in the case of the chairman until his appointment is terminated by the Minister, in the case of any member (other than the chairman) who on that date was

The National Health Insurance (Dental Benefit) Regulations, 1938, S. R. & O., 1938 (No. 1466), II, p. 2453.—*Continued.*

The National Health Insurance (Deposit Contributors) Regulations, 1938, S. R. & O., 1938 (No. 1658), II, p. 2201.

The National Health Insurance (Deposit Contributors Insurance Section) Regulations, 1938, S. R. & O., 1938 (No. 1653), II, p. 2217.

The National Health Insurance (Discharged Seamen, Soldiers and Airmen) Regulations, 1938, S. R. & O., 1938 (No. 1503), II, p. 2488.

The National Health Insurance (Duration of Insurance) Regulations, 1937, S. R. & O., 1937 (No. 1032), p. 1786.

The National Health Insurance (Emergency) Regulations (No. 2), 1944, S. R. & O., 1944, No. 1036.

The National Health Insurance (Emergency Additional Benefits) Regulations, 1942, S. R. & O., 1942 (No. 2280), I, p. 616.

subject to the provisions of paragraph (2) of Regulation 7 until his appointment is terminated by the Minister, the Minister of Health and the Secretary of State, and in the case of any member who on that date was subject to the provisions of paragraph (3) of that regulation until his period of office as provided for therein has expired."

Paragraph (1) of Regulation 3, as amended by paragraph (1) of Regulation 2 of the National Health Insurance (Deposit Contributors) Amendment Regulations (No. 2), 1942.

In paragraph (1) of Regulation 18, after the word "Minister" there shall be inserted the words "of Health", and for the words "except in the case of Scotland in which case there shall be paid in respect of the expenses of the Department of Health for Scotland" there shall be substituted the words "but in the case of Scotland there shall be paid in respect of such expenses incurred by the Secretary of State".

Paragraph (1) of Regulation 2, as amended by Regulation 2 of the National Health Insurance (Deposit Contributors Insurance Section) Amendment Regulations, 1943.

First Schedule.

In sub-paragraph (6) of paragraph 2 of the Second Schedule, after the word "Minister", in the second place where that word occurs, there shall be inserted the words "of Health or the Secretary of State," and after that word in the third place where it occurs there shall be inserted the words "of Health or the Secretary of State, as the case may be";

Second Schedule, paragraph 8 (4).

Paragraph (1) of Regulation 2.

In the proviso to Regulation 4, after the word "Minister", in the first place where that word occurs, there shall be inserted the words "of Health".

Regulation 2.

Paragraph (2) of Regulation 1.

Paragraph (2) of Regulation 1.

The National Health Insurance (Emergency Payment of Benefit) Regulations, 1940, S. R. & O., 1940 (No. 302), I, p. 612.

The National Health Insurance (Exempt Persons) Regulations, 1937, S. R. & O., 1937 (No. 886), p. 1730.

The National Health Insurance (Home Guard) Regulations, 1942, S. R. & O., 1942 (No. 1147), I, p. 589.

The National Health Insurance (Inspectors' Certificates) Regulations, 1937, S. R. & O., 1937 (No. 668), p. 1857.

The National Health Insurance (Inspectors' Certificates) Regulations (Scotland), 1937, S. R. & O., 1937 (No. 280), p. 1859.

The National Health Insurance (Investment Account) Regulations, 1924, S. R. & O., 1924 (No. 1459), p. 1310.

The National Health Insurance (Joint Committee) Regulations, 1938, S. R. & O., 1938 (No. 298), II, p. 2179.

The National Health Insurance (Joint Committee) Regulations (No. 2), 1938, S. R. & O., 1938 (No. 1614), II, p. 2199.

The National Health Insurance (Joint Committee) Regulations, 1940, S. R. & O., 1940 (No. 301), I, p. 587.

The National Health Insurance (Joint Committee) Regulations, 1941 (Provisional Regulations dated 15th October, 1941).

The National Health Insurance (Juvenile Deposit Contributors) Regulations, 1938, S. R. & O., 1938 (No. 1633), II, p. 2241.

Paragraph (1) of Regulation 2.

Paragraph (1) of Regulation 2, as amended by Regulation 2 of the National Health Insurance (Exempt Persons) Amendment Regulations, 1942.

Second Schedule, Form 2.

Paragraph (3) (c) of Regulation 3.

Schedule.

Regulation 2.
Schedule.

Regulation 2.

Regulation 8 shall be omitted, and in Regulation 9, for the words "the Scottish Board of Health" there shall be substituted the words "the Minister in respect of persons resident in Scotland".

Paragraph (1) of Regulation 2.

In paragraph (1) of Regulation 3, the words "of Health, the Secretary of State for Scotland" and the words from "and the Minister of Health" to the end of the paragraph shall be omitted.

In paragraph (1) of Regulation 4, for the word "three" there shall be substituted the word "two"; and in paragraph (2) of that regulation, for the words from the beginning to the words "in that order" there shall be substituted the words "The Minister, or in his absence the Minister of Labour for Northern Ireland".

Paragraph (1) of Regulation 2.

Paragraph (1) of Regulation 2.

Paragraph (1) of Regulation 2.

Paragraph (1) of Regulation 2, as amended by Regulation 2 of the National Health Insurance (Juvenile Deposit Contributors) Amendment Regulations, 1942.

In paragraph (3) of Regulation 3, after the word "Minister" there shall be inserted the words "of Health", and for the words "except in the case of Scotland in which

The National Health Insurance (Juvenile Deposit Contributors) Regulations, 1938, S. R. & O., 1938 (No. 1633), II, p. 2241.—*Continued.*

The National Health Insurance (Medical Benefit) Regulations (Scotland), 1938, S. R. & O., 1938 (No. 609), II, p. 2379.

The National Health Insurance (Navy, Army and Air Force) Regulations, 1938, S. R. & O., 1938 (No. 1467), II, p. 2245.

The National Health Insurance (Navy, Army and Air Force Auxiliary Services) Regulations, 1944, S. R. & O., 1944, No. 1092.

The National Health Insurance (Navy, Army and Air Force Emergency Provisions) Regulations, 1942, S. R. & O., 1942 (No. 2697), I, p. 599.

The National Health Insurance (Navy, Army and Air Force Emergency Provisions) Amendment Regulations, 1944, S. R. & O., 1944, No. 1117.

The National Health Insurance (Reserve and Transfer Values) Regulations, 1938, S. R. & O., 1938 (No. 1508), II, p. 2647.

The National Health Insurance (Reserve Forces) Regulations, 1944, S. R. & O., 1944, No. 1093.

The National Health Insurance (Special Order Inquiry) Rules, 1937, S. R. & O., 1937 (No. 651), p. 1727.

The National Health Insurance (Stamps) Regulations, 1924, S. R. & O., 1924 (No. 1541), p. 1340.

The National Health Insurance (Statutory Undertakers Total Exception) Regulations, 1939, S. R. & O., 1939 (No. 482), II, p. 2098.

case there shall be paid in respect of the expenses of the Department of Health for Scotland" there shall be substituted the words "but in the case of Scotland there shall be paid in respect of such expenses incurred by the Secretary of State".

In Regulation 4, for the word "Minister" there shall be substituted the words "Secretary of State".

In the definition of "The Department" contained in paragraph (1) of Regulation 2, the words "or the Department of Health for Scotland," shall be added at the end thereof.

Paragraph (3) of Regulation 1, as amended by the National Health Insurance (Navy, Army and Air Force) Amendment Regulations, 1944.

Paragraph (3) of Regulation 12.

Second Schedule.

In paragraph 5 of the Third Schedule, after the word "Minister", in the second place where that word occurs, there shall be inserted the words "of Health or the Secretary of State or the Ministry of Labour for Northern Ireland", and after that word in the third place where it occurs there shall be inserted the words "of Health or the Secretary of State or the Ministry of Labour for Northern Ireland, as the case may be".

Paragraph (3) (b) of Regulation 3.

Regulation 4.

Paragraph (2) of Regulation 7.

Paragraph (2) of Regulation 3.

Paragraph (1) of Regulation 2.

Paragraph (2) of Regulation 1.

Paragraph (3) (c) of Regulation 2.

Paragraph (2) (b) of Regulation 4.

Regulation 5.

Paragraph (2) of Regulation 7.

Paragraph (2) of Regulation 1.

Sections 3 and 7 of the Stamp Duties Management Act, 1891, as set out with adaptations in the Schedule.

Paragraph (1) of Regulation 2.

The National Health Insurance (Transitional) Regulations, 1935, S. R. & O., 1935 (No. 1358), p. 1230.

The National Health Insurance (Unclaimed Proceeds of Stamp Sales) Regulations, 1938, S. R. & O., 1938 (No. 696), II, p. 2703.

The National Health Insurance (Valuation) Regulations, 1938, S. R. & O., 1938 (No. 281), II, p. 2632.

The National Health Insurance (Voluntary Contributors) Regulations, 1938, S. R. & O., 1938 (No. 1137), II, p. 2229.

Rules of the Supreme Court, 1883.

Paragraph (1) of Regulation 2, except in its application to Regulation 7.

In Regulation 2, as amended by the National Health Insurance (Unclaimed Proceeds of Stamp Sales) Amendment Regulations, 1941, in paragraph (f), after the word "Minister" there shall be inserted the words "of National Insurance or the Ministry of Labour for Northern Ireland, as the case may be", and in paragraph (g), for the words "to insurance committees" there shall be substituted the words "to the Minister of Health on account of insurance committees".

Paragraph (1) of Regulation 2.

Paragraph (1) of Regulation 2.

Order LVb., Rules 1 to 7 and 9.

The National Health Insurance and Contributory Pensions (Collection of Contributions) Regulations, 1938, S. R. & O., 1938 (No. 773), II, p. 2266.

The National Health Insurance and Contributory Pensions (Collection of Contributions) Regulations (Scotland), 1938, S. R. & O., 1938 (No. 318), II, p. 2313.

The National Health Insurance and Contributory Pensions (Mercantile Marine) (Collection of Contributions) Regulations, 1938, S. R. & O., 1938 (No. 1172), II, p. 2359.

The National Health Insurance and Contributory Pensions (Collection of Contributions for Metropolitan Police Short Service Constables) Regulations, 1938, S. R. & O., 1938 (No. 258), II, p. 2376.

The National Health Insurance and Contributory Pensions (Internees and Other Persons) Regulations, 1941, S. R. & O., 1941 (No. 1983), I, p. 643.

The National Health Insurance and Contributory Pensions (Transitional) Regulations, 1940, S. R. & O., 1940 (No. 1246), I, p. 619.

The National Health Insurance and Contributory Pensions (Transitional) Amendment Regulations, 1942, S. R. & O., 1942 (No. 1350), I, p. 623.

Paragraph (1) of Regulation 2.
Second, Third and Fifth Schedules.

Paragraph (1) of Regulation 2.
Paragraph (4) of Regulation 16, as amended by the National Health Insurance and Contributory Pensions (Collection of Contributions) Amendment Regulations (Scotland), 1939.
Second and Fourth Schedules.
Paragraph (1) of Regulation 2.
First Schedule.

Paragraph (1) of Regulation 2.

Paragraph (2) of Regulation 1.

Paragraph (2) of Regulation 1

First Schedule.

The National Health Insurance and Contributory Pensions (War Occupations) Regulations, 1940, S. R. & O., 1940 (No. 253), I, p. 594.

Paragraph (1) of Regulation 2.

The Contributory Pensions (Appropriation in Aid) Regulations, 1938, S. R. & O., 1938 (No. 308), I, p. 694.

Paragraph (1) of Regulation 2.
Paragraph (1) of Regulation 3.
Regulation 7.

In Regulation 9, the references to “(a) the Department of Health for Scotland” and “(a) the Minister or the Ministry of Health” shall be omitted.
Paragraph (1) of Regulation 2.

The Contributory Pensions (Approved Societies Returns) Regulations, 1937, S. R. & O., 1937 (No. 1021), p. 488.

The Contributory Pensions (Calculation of Contributions) Regulations, 1937, S. R. & O., 1937 (No. 1136), p. 453.

Paragraph (1) of Regulation 2, as amended by Regulation 2 of the Contributory Pensions (Calculation of Contributions) Amendment Regulations, 1942.

Paragraph (1) of Regulation 2.

The Contributory Pensions (Claims and Payment) Regulations, 1938, S. R. & O., 1938 (No. 481), I, p. 669.

The Contributory Pensions (Collection of Contributions for Excepted Persons) Regulations, 1938, S. R. & O., 1938 (No. 31), I, p. 666.

Paragraph (1) of Regulation 2.

The Contributory Pensions (Collection of Contributions for Persons over sixty-five) Regulations, 1938, S. R. & O., 1938 (No. 816), I, p. 635.

Paragraph (1) of Regulation 2.

In the Schedule, for any reference to the “Ministry of Health”, the “Minister of Labour”, the “Ministry of Labour”, the “Ministers of Health and Labour”, the “Department of Health for Scotland” or the “Department” there shall be substituted a reference to the Minister of National Insurance or the Ministry of National Insurance, as the case may be.

Paragraph (1) of Regulation 2.

The Contributory Pensions (Dependants War Pensions) Regulations, 1943, S. R. & O., 1943 (No. 1424), I, p. 106.

The Contributory Pensions (Determination of Income) Regulations, 1939, S. R. & O., 1939 (No. 775), I, p. 440.

The Contributory Pensions (Emergency Provisions) Regulations, 1942, S. R. & O., 1942 (No. 624), I, p. 79.

Paragraph (2) of Regulation 1.
Schedule, Parts I, II and III.

Paragraph (2) of Regulation 1.

The Contributory Pensions (Exempt and Excepted Persons) Regulations, 1937, S. R. & O., 1937 (No. 948), p. 442.

Paragraph (1) of Regulation 2, as amended by Regulation 2 of the Contributory Pensions (Exempt and Excepted Persons) Amendment Regulations, 1943.

Paragraph (1) of Regulation 2.

The Contributory Pensions (Joint Committee) Regulations, 1937, S. R. & O., 1937 (No. 543), p. 425.

The Contributory Pensions (Joint Committee) Regulations (No. 2), 1937, S. R. & O., 1937 (No. 694), p. 432.

Paragraph (1) of Regulation 2.

The Contributory Pensions (Joint Committee) Regulations, 1940, S. R. & O., 1940 (No. 830), I, p. 201.

Paragraph (1) of Regulation 2.

The Contributory Pensions (Joint Committee) Regulations, 1941, S. R. & O., 1941 (No. 1695), I, p. 119.	Paragraph (1) of Regulation 2.
The Contributory Pensions (Mercantile Marine) Order, 1937, S. R. & O., 1937 (No. 1229), p. 449.	Article 2, as amended by Article 2 of the Contributory Pensions (Mercantile Marine) Amendment Order, 1942.
The Contributory Pensions (Notification of Incapacity) Regulations, 1937, S. R. & O., 1937 (No. 821), p. 457.	Regulation 2.
The Contributory Pensions (Oversea Voluntary Contributors) Regulations, 1932, S. R. & O., 1932 (No. 53), p. 188.	Paragraph (1) of Regulation 2.
The Contributory Pensions (Payments on Death) Regulations, 1937, S. R. & O., 1937 (No. 850), p. 458.	Paragraph (1) of Regulation 2.
The Contributory Pensions (Payments on Death) Regulations (Scotland), 1937, S. R. & O., 1937 (No. 617), p. 460.	Paragraph (1) of Regulation 2.
The Contributory Pensions (References) Regulations, 1937, S. R. & O., 1937 (No. 1022), p. 468.	Paragraph (1) of Regulation 2.
The Contributory Pensions (References) Regulations (Scotland), 1938, S. R. & O., 1938 (No. 17), I, p. 686.	Paragraphs (1) and (3) of Regulation 3. Second Schedule.
The Contributory Pensions (Special Voluntary Contributors) Regulations, 1937, S. R. & O., 1937 (No. 1188), p. 445.	Paragraph (1) of Regulation 2. Schedule.
The Contributory Pensions (Voluntary Contributors) Regulations, 1938, S. R. & O., 1938 (No. 1108), I, p. 611.	Paragraph (2) of Regulation 1.
	Paragraph (2) of Regulation 1, as amended by the Contributory Pensions (Voluntary Contributors) Amendment Regulations, 1943.
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The Old Age Pensions Consolidated Regulations, 1922, S. R. & O., 1921 (No. 2001), p. 1007.	Paragraph (1) of Regulation 2. First Schedule.

[1037]

THE MINISTRY OF NATIONAL INSURANCE (UNEMPLOYMENT INSURANCE AND ASSISTANCE) ORDER, 1945

S. R. & O., 1945, No. 317

March 21, 1945

His Majesty, in exercise of the powers conferred on Him by section six of the Ministry of National Insurance Act, 1944, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) There are hereby transferred to the Minister of National Insurance, as from the date on which this Order comes into force, all functions of the Minister of Labour and National Service under the Unemployment Insurance Acts, 1935 to 1944, and the Unemployment Assistance Acts, 1934 to 1940, except functions of that Minister under the following provisions, that is to say :—

- (a) sections seventy-six to seventy-nine of the Unemployment Insurance Act, 1935, section one of the Unemployment Insurance Act, 1938, and section eight of the Unemployment Insurance Act, 1939 (which relate to courses of instruction);

- (b) section eighty-one of the Unemployment Insurance Act, 1935 (which relates to the powers of Education Authorities); and
- (c) section eighty-two and one hundred to one hundred and two of the Unemployment Insurance Act, 1935 (which relate to the promotion of employment).

(2) All property belonging to the Minister of Labour and National Service in connection with the functions hereby transferred shall, by virtue of this Order and without more, be transferred to the Minister of National Insurance. [1038]

2. The Minister of National Insurance may make arrangements with the Minister of Labour and National Service for securing that any functions transferred by this Order shall be performed on behalf of the Minister of National Insurance by the Minister of Labour and National Service. [1039]

3.—(1) The enactments specified in the First Schedule to this Order shall have effect subject to the amendments set out in relation thereto in the second column of that Schedule.

(2) The provisions of the regulations, rules and orders specified in the Second Schedule to this Order shall have effect subject to the amendments set out in relation thereto in the second column of that Schedule, and subject thereto all regulations, rules and orders made, or having effect as if made, under any of the enactments specified in Article 1 of this Order shall have effect as if for any reference therein to the Minister of Labour and National Service, or to the Ministry of Labour and National Service (except any such reference which is inserted therein by the said Schedule, and except any such reference in regulations made under any of the sections specified in subparagraphs (a), (b) or (c) of paragraph (1) of Article 1 of this Order and except the reference to that Minister in Regulation 25 of the Unemployment Insurance (Emergency Powers) Regulations, 1939, as amended by the Unemployment Insurance (Emergency Powers) (Amendment) (No. 2) Regulations, 1940), there were substituted a reference to the Minister of National Insurance or to the Ministry of National Insurance, as the case may be.

(3) Without prejudice to the foregoing provisions of this Article, any reference in any enactment or instrument to the Minister of Labour and National Service or the Ministry of Labour and National Service (not being an enactment specified in Article 1 of this Order or a regulation, order or rule made under any such enactment) shall, so far only as may be necessary for the purpose or in consequence of the transfer effected by this Order, be construed as, or as including, a reference to the Minister of National Insurance or the Ministry of National Insurance, as the case may be. [1040]

4.—(1) Subject to the foregoing provisions of this Order, the transfer of functions effected by this Order shall not affect any instrument made, issued or given by the Minister of Labour and National Service which is in force on the date on which this Order comes into force, or any act done by or to that Minister which is effective on that date, and every such instrument or act shall, so far as it relates to the functions hereby transferred, have effect on and after that date as if it had been made, issued or given by, or done by or to, the Minister of National Insurance, and shall be deemed to have been so made, issued, given or done for the purposes of any enactment or instrument as amended by this Order :

Provided that nothing in this Order shall be construed as transferring to the Ministry of National Insurance any person who, on the date aforesaid, is an officer of the Ministry of Labour and National Service.

(2) In any legal proceeding pending on the date on which this Order comes into force to which the Minister of Labour and National Service is a party, being a proceeding which relates to any of the functions trans-

ferred by this Order, the Minister of National Insurance shall be substituted for that Minister, and the proceeding shall not abate by reason of the transfer.

(3) Without prejudice to the foregoing provisions of this Article, anything which has been begun by, before, or under the authority of, the Minister of Labour and National Service prior to the date on which this Order comes into force may, so far as it relates to any functions transferred by this Order, be carried on or completed on or after that date by, before, or under the authority of, the Minister of National Insurance. [1041]

5.—(1) The Interpretation Act, 1889, shall apply for the purposes of the interpretation of this Order as it applies for the purposes of the interpretation of an Act of Parliament.

(2) In this Order—

(a) the expression “functions” includes powers, rights, duties and liabilities, and the reference to the performance of functions shall be construed accordingly;

(b) the expression “instrument” includes any order, rule, regulation or scheme, and any judgment, award, deed, contract, agreement, arrangement, certificate, notice or other document;

and the reference in this Order to any act done includes a reference to any decision, determination, direction, requirement, application, appointment, approval, authority or estimate given, issued or made. [1042]

6. This Order may be cited as the Ministry of National Insurance (Unemployment Insurance and Assistance) Order, 1945, and shall come into force on the first day of April, 1945. [1043]

* * * * *

FIRST SCHEDULE

ENACTMENTS AMENDED

The Unemployment Act, 1934 (24 & 25 Geo. 5, c. 29).

Section 36 In subsection (3), for the words “the Minister of Health”, wherever those words occur, there shall be substituted the words “the Minister”.

Section 37 After the word “Minister”, in the second place where that word occurs, there shall be inserted the words “of Labour and National Service”.

Section 38 In subsection (5), after the word “Minister” in the first place where that word occurs, there shall be inserted the words “or the Minister of Labour and National Service”; and for the words “the Minister”, in the second place where those words occur, there shall be substituted the words “that Minister”.

Section 42 In subsection (1), for the words from the beginning of the subsection to “offices of the authority”, there shall be substituted the words “An allowance granted under this Part of this Act shall, in accordance with rules made under this Part of this Act, be issued by officers of the Assistance Board or, by arrangement with the Minister, the Minister of Labour and National Service, or an education authority, by their officers respectively, and, except where the Board with the approval of the Minister otherwise directs, shall be issued at the local offices of the Ministry of Labour or, in the case of allowances issued by officers of education authorities, at the offices of the authority”.

In subsection (2), after the word “Minister”, there shall be inserted the words “of Labour and National Service”.

- Section 54 In subsection (1) in the definition of "Minister", for the words "the Minister of Labour" there shall be substituted the words "the Minister of National Insurance".
- Section 55 In paragraph (1), the words "thirty-six" shall be omitted.
- The Unemployment Insurance Act, 1935 (25 & 26 Geo. 5, c. 8).
- Section 7 The words "after consultation as respects England with the Minister of Health and as respects Scotland with the Department of Health for Scotland" shall be omitted.
- Section 25 In subsection (1), after the word "Minister" there shall be inserted the words "of Labour and National Service".
- Section 28 In subsection (1), for the words "by an officer of the Ministry of Labour" there shall be substituted the words "on behalf of the Minister".
- Section 32 In subsection (3), for the words "by an officer of the Ministry of Labour" there shall be substituted the words "on behalf of the Minister".
- Section 61 After the word "Minister" there shall be inserted the words "or by the Minister of Labour and National Service".
- Section 63 For the words "the Minister", in the first place where those words occur, there shall be substituted the words "any Minister"; the words "of Labour" shall be omitted; and for the words "the Minister", in the second place where those words occur, there shall be substituted the words "that Minister".
- Section 64 In subsection (1), after the word "Minister" in the first place where that word occurs, there shall be inserted the words "and the Minister of Labour and National Service"; and for the words "the Minister", in the second place where those words occur, there shall be substituted the words "they respectively".
- Section 66 After the word "Minister" there shall be inserted the words "or the Minister of Labour and National Service, as the case may be".
- Section 67 After the word "Minister" there shall be inserted the words "or by the Minister of Labour and National Service".
- Sections 76 to 79 .. After the word "Minister", wherever that word occurs, there shall be inserted the words "of Labour and National Service".
- Section 80 In subsection (1), after the word "Minister" where that word occurs for the second time, and in subsection (3), after the word "Minister" in both places where that word occurs, there shall be inserted the words "of Labour and National Service".
- Section 81 After the word "Minister", wherever that word occurs, there shall be inserted the words "of Labour and National Service".
- Section 82 After the word "Minister" in the first place where that word occurs, there shall be inserted the words "of Labour and National Service"; and for the words "to the Minister in the prescribed manner" there shall be substituted the words "to that Minister in such manner as may be prescribed by the regulations".
- Section 87 In subsection (1), after the word "Minister" in the first place where that word occurs, there shall be inserted the words "or the Minister of Labour and National Service, as the case may be"; for the words "the Minister", in the second place where those words occur, there shall be substituted the words "that Minister"; and, after the words "the Minister", in the third place where those words occur, there shall be inserted the words "or by the Minister of Labour and National Service, as the case may be"; in subsection (3), after the word "Minister" there

shall be inserted the words "or of the Minister of Labour and National Service, as the case may be"; and in subsection (4), after the word "Minister" there shall be inserted the words "or the Minister of Labour and National Service".

- Section 90 After the word "Minister", in the first place where that word occurs, there shall be inserted the words "or the Minister of Labour and National Service"; and for the words "the Minister", in the second place where those words occur, there shall be substituted the words "that Minister".
- Sections 100 to 102 .. After the word "Minister", wherever that word occurs, there shall be inserted the words "of Labour and National Service".
- Section 104 At the beginning of subsection (1) there shall be inserted the words "The Minister of Labour and National Service may make regulations for the purposes of sections seventy-eight, eighty-one and eighty-two of this Act, and", and after the word "any" there shall be inserted the word "other"; in subsection (2) the words "except under section seventy-eight and section eighty-two of this Act" shall be omitted; and in subsection (6) for the words "being neither regulations made under section seventy-eight or section eighty-two of this Act nor" there shall be substituted the words "not being".
- Section 105 In subsection (4), after the word "Minister" there shall be inserted the words "or by the Minister of Labour and National Service".
- Section 109 In paragraph (b), after the word "Ireland" there shall be added the words "except that, in the application of section eighty-seven of this Act, references to the Minister or to the Minister of Labour and National Service shall be construed as including references to the Ministry of Labour for Northern Ireland".
- Section 112 After the word "Minister" there shall be inserted the words "of Labour and National Service".
- Section 113 In paragraph (r) of subsection (1), for the words "the Minister of Labour" there shall be substituted the words "the Minister of National Insurance".

The Unemployment Insurance Act (Northern Ireland), 1936 (26 Geo. 5, and 1 Edw. 8, N.I., c. 30).

- Section 115 In subsection (1), for the words "Minister of Labour for Great Britain" there shall be substituted the words "Minister of National Insurance for Great Britain".
- Section 116 In paragraph (b), for the words "Minister of Labour for Great Britain" there shall be substituted the words "Minister of National Insurance for Great Britain, except that, in the application of section ninety-eight of this Act, references to the Ministry shall be construed as including references to the Minister of National Insurance for Great Britain or to the Minister of Labour and National Service for Great Britain, as the case may be".

The Unemployment Insurance Act, 1938 (1 & 2 Geo. 6, c. 8).

- Section 1 In paragraph (b), the words "(hereinafter referred to as 'the Minister')" shall be omitted; and for the words "the Minister" in both places where those words occur in the proviso there shall be substituted the words "that Minister".
- Section 2 After the word "Minister" there shall be added the words "of National Insurance (hereinafter referred to as 'the Minister')".

Section 8 In paragraph (a), after the word "Minister" there shall be inserted the words "of Labour and National Service".

The Unemployment Insurance Act, 1939 (2 & 3 Geo. 6, c. 29).

Section 1 In subsection (3), for the words "the Minister of Health, and of the Department of Health for Scotland" there shall be substituted the words "the Minister".

Section 8 In subsections (1), (3), (4) and (5), after the word "Minister", wherever that word occurs, there shall be inserted the words "of Labour and National Service".

Section 10 In subsection (1), after the word "Minister", in the first place where that word occurs, there shall be inserted the words "or the Minister of Labour and National Service", and for the words "the Minister", in the second place where those words occur, there shall be substituted the words "that Minister".

The Unemployment Insurance (Emergency Powers) Act, 1939 (2 & 3 Geo. 6, c. 92).

Section 1 In subsection (1), for the words "the Minister of Labour" there shall be substituted the words "the Minister of National Insurance", and after the word "Treasury" there shall be inserted the words "or, in the case of any matter with which the Minister of Labour and National Service is concerned, the Minister of Labour and National Service, with the approval of the Treasury"; and in subsection (2), for the words "Minister of Labour" there shall be substituted the words "Minister of National Insurance".

The Unemployment Assistance (Emergency Powers) Act, 1939 (2 & 3 Geo. 6, c. 93).

Sections 1 and 2 .. For the words "Minister of Labour", wherever those words occur, there shall be substituted the words "Minister of National Insurance".

The Unemployment Insurance Act (Northern Ireland), 1939 (2 & 3 Geo. 6, N.I., c. 28).

Section 12 In subsection (1), for the words "Minister of Labour for Great Britain" there shall be substituted the words "Minister of National Insurance for Great Britain".

The Old Age and Widows' Pensions Act, 1940 (3 & 4 Geo. 6, c. 13).

Section 3 In subsection (5), for the words "Minister of Labour" there shall be substituted the words "Minister of National Insurance".

The Unemployment Insurance Act, 1940 (3 & 4 Geo. 6, c. 44).

Section 5 In subsection (2), for the words "Minister of Labour and National Service" there shall be substituted the words "Minister of National Insurance".

The Determination of Needs Act, 1941 (4 & 5 Geo. 6, c. 11).

Section 6 In subsection (2), for the words "Minister of Labour and National Service" there shall be substituted the words "Minister of National Insurance".

The Education Act, 1944 (7 & 8 Geo. 6, c. 31).

Schedule VIII .. In Part II, in the amendment of section seventy-eight of the Unemployment Insurance Act, 1935, for the words "the word 'Minister'" there shall be substituted the words "the words 'Minister of Labour and National Service'".

SECOND SCHEDULE

REGULATIONS, RULES AND ORDERS AMENDED

The Unemployment Insurance (Insurance Industry Special Scheme) (Variation and Amendment) Special Order (Northern Ireland), 1935 (S. R. & O., Northern Ireland, 1935 (No. 57), p. 278).

Schedule In paragraphs (2) and (4) of clause 64 of the Scheme, for the words "the Minister of Labour of the United Kingdom", in both places where those words occur, there shall be substituted the words "the Minister of National Insurance for Great Britain".

The Unemployment Insurance (Contributions) Regulations, 1936 (S. R. & O., 1936 (No. 331), II, p. 3526).

Regulation 5 .. In paragraph (2), for the words "the Claims and Record Office of the Ministry of Labour, Kew, Surrey" there shall be substituted the words "the Claims and Record Office of the Ministry of National Insurance, Acton, London, W.3".

Regulation 10 .. In paragraph (4), for the words "any duly appointed officer of the Ministry of Labour" there shall be substituted the words "any officer acting on behalf of the Ministry of National Insurance".

Regulation 22 .. In paragraph (1), for the words "the Minister of Health", wherever those words occur, there shall be substituted the words "the Minister of National Insurance"; and paragraph (2) of that Regulation shall be omitted.

Regulation 29 .. In paragraph (3), the words "of the Ministry of Labour" shall be omitted.

The Unemployment Insurance (Contributions) (Amendment) Regulations, 1936 (S. R. & O., 1936 (No. 1156), II, p. 3571).

Regulation 2 .. For the words "Ministry of Labour" there shall be substituted the words "the Ministry of National Insurance or the Ministry of Labour and National Service".

The Unemployment Insurance (Benefit) Regulations, 1936 (S. R. & O., 1936 (No. 335), II, p. 3578).

Regulation 9 .. In paragraph (a), for the words "the Ministry of Health or of the Department of Health for Scotland" there shall be substituted the words "the Ministry of National Insurance".

The Unemployment Insurance (Determination of Questions) Regulations, 1936 (S. R. & O., 1936 (No. 378), II, p. 3605).

Regulation 13 .. For the words "Minister of Health, or the Department of Health for Scotland, as the case may be" there shall be substituted the words "the Minister of National Insurance".

The Unemployment Insurance (Courts of Referees) Regulations, 1936 (S. R. & O., 1936 (No. 334), II, p. 3613).

Regulation 6 .. The words "of the Ministry of Labour" shall be omitted.

Regulation 7 .. In sub-paragraph (b) of paragraph (1), for the words "any officer of the Ministry of Labour that the Minister may direct" there shall be substituted the words "any officer designated on behalf of the Minister of National Insurance".

The Unemployment Insurance (Stamps) Regulations, 1936 (S. R. & O., 1936 (No. 666), II, p. 3618).

Schedule In section three of the Stamp Duties Management Act, 1891, as set out with adaptations, after the words "Minister of Labour" in the first place where those words occur, there shall be inserted the words "or by the Minister of National Insurance", and after those words in the second place where they occur there shall be inserted the words "or by the Postmaster General and the Minister of National Insurance, as the case may be".

In section seven of the said Act as set out as aforesaid, after the words "Ministry of Labour" there shall be inserted the words "or the Ministry of National Insurance".

The Unemployment Insurance (Banking Industry Special Scheme) (Amendment) Special Order, 1938 (S. R. & O., 1938 (No. 656), II, p. 3372).

Schedule In paragraph (iii) of proviso (b) to clause 26 of the Scheme, after the words "Ministry of Labour" there shall be inserted the words "or the Ministry of National Insurance".

The Unemployment Insurance (Banking Industry Special Scheme) (Amendment) Order, 1941 (S. R. & O., 1941 (No. 556), I, p. 1154).

Article 2 After the word "Minister", in both places where that word occurs, there shall be inserted the words "of Labour and National Service".

The Unemployment Insurance (Insurance Industry Special Scheme) (Amendment) Order, 1941 (S. R. & O., 1941 (No. 557), I, p. 1157).

Article 2 After the word "Minister", in both places where that word occurs, there shall be inserted the words "of Labour and National Service".

The Unemployment Insurance (Emergency Powers) Regulations, 1939, as amended by subsequent Regulations (S. R. & O., 1939 (Nos. 1148 and 1944), II, pp. 3466-72; 1940 (Nos. 744, 1235, 1456 and 2211), I, pp. 1073-8; 1941 (No. 2152), I, p. 1160; 1942 (Nos. 610, 693, 1517 and 2669), II, pp. 831-40; 1943 (Nos. 167 and 1363), I, pp. 977-8; and 1944 (No. 799)).

Regulation 14 .. After the word "Minister" there shall be inserted the words "of Labour and National Service".

Regulation 26 .. In sub-paragraph (ii) of paragraph (1), after the word "Minister" there shall be inserted the words "of Labour and National Service".

Regulation 27 .. In paragraph (1), after the word "Minister", wherever that word occurs, there shall be inserted the words "of Labour and National Service".

The Unemployment Assistance (Allowances) Rules, 1939 (S. R. & O., 1939 (No. 582), II, p. 3411).

Rule 2 After the word "Minister" there shall be inserted the words "of Labour and National Service".

The Unemployment Assistance (Appeal Tribunals) Rules, 1939 (S. R. & O., 1939 (No. 583), II, p. 3424).

Rule 3 In paragraph (3), for the words "the Minister of Health" there shall be substituted the words "the Minister of National Insurance".

Rule 12 The words from "a reference" to "hereof, and" shall be omitted. [1045]

THE UNEMPLOYMENT INSURANCE (EMERGENCY POWERS) (AMENDMENT) REGULATIONS, 1945

S. R. & O., 1945, No. 338

March 23, 1945

Whereas the Minister of Labour has made the Unemployment Insurance (Emergency Powers) Regulations, 1939 (hereinafter referred to as "the principal Regulations") and those Regulations have been amended and it is desirable further to amend the said Regulations ;

Now therefore the Minister of Labour and National Service by virtue of the powers conferred on him by the Unemployment Insurance (Emergency Powers) Act, 1939, the Minister of National Service Order, 1939, and of all other powers in that behalf, with the approval of the Treasury, hereby makes the following Regulations :—

1.—(1) These Regulations may be cited as the Unemployment Insurance (Emergency Powers) (Amendment) Regulations, 1945, and shall come into force on the date hereof and these Regulations and the Unemployment Insurance (Emergency Powers) Regulations, 1939 to 1944, may be cited together as the Unemployment Insurance (Emergency Powers) Regulations, 1939 to 1945.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1046]

2. Part I of the First Schedule to the principal Regulations (which specifies certain employments deemed to be Excepted Employments and to which Section 96 of the Unemployment Insurance Act, 1935, is to apply as respects persons employed therein) shall have effect as if :—

- (a) at the end of sub-paragraph (b) of paragraph 1 thereof there were inserted the words "or retired members of Queen Alexandra's Royal Naval Nursing Service re-employed in that Service" : and
- (b) at the end of sub-paragraph (f) of paragraph 1 thereof there were inserted the words "or retired members of Queen Alexandra's Imperial Military Nursing Service re-employed in that Service" ; and
- (c) at the end of sub-paragraph (m) of paragraph 1 thereof there were inserted the words "temporary members of the Princess Mary's Royal Air Force Nursing Service and retired members of that service who are re-employed in it." [1047]

3. Part II of the First Schedule to the principal Regulations (which specifies persons in the naval, military and air service of the Crown to whom Section 96 of the Unemployment Insurance Act, 1935, is to apply) shall have effect as if at the end of paragraph 1 thereof there were added the following words :—

"and officers of the Royal Indian Naval Reserve or Royal Indian Naval Volunteer Reserve who are either domiciled or have a place of residence in the United Kingdom." [1048]

* * * * *

EXPLANATORY NOTE

Section 96 of the Unemployment Insurance Act, 1935, provides for the credit of unemployment insurance contributions in the case of soldiers, seamen, marines and airmen on their discharge from their respective Services. Regulations under the Unemployment Insurance (Emergency Powers) Act, 1939, extended the provisions of that section and Regulations 2 and 3 of the present Regulations further extend those provisions to cover the nurses and naval officers therein specified.

NUISANCES

CASES :—

Haigh v. Deudraeth Rural District Council, [1945] 2 All E. R. 661 - - - 341

PAGE

CASES

Nuisance—Pollution of river by sewage—Local authority in control of sewer—Sewer originally constructed by rural sanitary authority—Subsequent legislation vesting rights and duties of sanitary authority in local authority—Injunction against local authority at suit of private individual—Liability of local authority.

Certain fields, forming part of freehold farm property belonging to the plaintiff, were in part intersected, and in part bounded, by a stream into which crude sewage matter had been discharged in considerable quantities, thereby infringing the plaintiff's right to have the flow of the stream in its natural state. The defendants, the local authority for the purposes of the Public Health Act, 1936, for the rural district within which the lands in question were situate, were in charge of the sewer. The sewer had been originally constructed by a rural sanitary authority, to the rights and duties of which the defendants had succeeded. The defendants admitted that, since 1937, the reconstruction of the sewer had become necessary, but no steps to improve the sewage system were taken until the outbreak of the war. In November, 1943, the plaintiff commenced the present action which was allowed to remain in abeyance pending attempts of the defendants to obtain the permission of the Welsh Board of Health, required under the Defence (General) Regulations, reg. 56A, to carry out a proposed scheme of reconstruction. This application, and a second modified application involving less expenditure, were rejected by the Board. It was contended on behalf of the defendants that no relief should be granted to a private litigant against a public authority where such relief would amount in substance, though not in form, to a mandatory order on that authority to construct a new sewage system :—

Held : since the sewer had been constructed by the local sanitary authority for the time being and had been throughout vested in and under the control of that authority and its successors under the relevant legislative provisions, the defendants were under the same liability as a private person for allowing the pollution of the river by the escape of sewage. The plaintiff was, therefore, entitled to an injunction to restrain the defendants from discharging sewage matter into the river, and to damages.

Jones v. Llanrwst Urban Council, [1911] 1 Ch. 393, *followed*.

Glossop v. Heston and Isleworth Local Board (1879), 12 Ch. D. 102 and *A.-G. v. Dorking Union Guardians* (1882), 20 Ch. D. 595, *distinguished*.—*HAIGH v. DEUDRAETH RURAL DISTRICT COUNCIL*, [1945] 2 All E. R. 661 ; 110 J. P. 97 ; 89 Sol. Jo. 579. [1049]

OFFICERS OF LOCAL AUTHORITIES

STATUTES :—

Compensation of Displaced Officers
(War Service) Act, 1945 - - -

PAGE

341

CASES :—

Lally (James) v. Durham County
Council, [1945] 1 All E. R. 311 -

PAGE

352

STATUTES

THE COMPENSATION OF DISPLACED OFFICERS (WAR SERVICE) ACT, 1945

(8 & 9 Geo. 6, c. 10)

PRELIMINARY NOTE

The main object of this Act is to place employees of local authorities who are on war service when a change in functions of the authority takes place, or who go on

war service after that date, in the same position so far as practicable in regard to compensation for loss of office or other direct pecuniary loss in consequence of the change in functions, as employees of the local authority who remained in local government employment (see s. 2, *post*).

The normal local government code of compensation applicable to employees holding office at the date when such a change of functions takes place is contained in Schedule IV to the Local Government Act, 1933. The present Act operates, or will operate, in any case in which that Schedule is applied, with or without modifications or adaptations, by any enactment or statutory order whether passed or made before or after the Act (s. 1, *post*). The provisions in the Act entitling an employee on war service to compensation are similar to the corresponding provisions in the Local Government Act, 1933, modified to meet the circumstances of employees on war service, and Schedule IV to that Act (*supra*), similarly modified, is set out in the Schedule to the present Act (*post*).

The Act also provides, by s. 6 (*post*), that, for compensation purposes, wherever compensation falls to be assessed the period of war service during the present war shall be reckoned as a period of service in office, as it is already reckonable in the case of the last war; and the employee's emoluments during such period are, for the purposes of paragraph 4 (2) of the Schedule (*post*) to be deemed to be such as he would have received if he had not been engaged in war service. This applies as from September 1, 1939.

Power is also given in the Act to provide by Order in Council for the compensation on similar lines of employees of public authorities and public utility undertakers on war service where there is statutory provision for the compensation of employees holding office before such change occurs (s. 5, *post*). Special provisions are also made as to teachers in certain schools (s. 3, *post*). [1050]

ARRANGEMENT OF SECTIONS

Section	Page
1. Application of Act to changes in the functions of local authorities ..	342
2. Compensation of officers of a local authority on war service who are affected by change of functions	343
3. Provisions as to teachers in certain schools	344
4. Power to pay compensation in certain additional cases	345
5. Power by Order in Council to provide for the compensation of officers of public authorities and public utility undertakers on war service ..	345
6. Amendment of Fourth Schedule to Local Government Act, 1933, and section sixteen of Electricity (Supply) Act, 1919	346
7. Increase of grants to be defrayed out of moneys provided by Parliament	346
8. Interpretation	347
9. Application to Scotland	348
10. Provisions as to Northern Ireland	348
11. Citation	348
SCHEDULE	348

An Act to provide for the compensation of persons who have been engaged in war service and are not re-employed or suffer loss of employment, reduction of emoluments or deterioration in their conditions of employment by reason of changes affecting the functions of local or public authorities or public utility undertakers or changes in the management of schools. [7th March, 1945.]

1. Application of Act to changes in the functions of local authorities.—
This Act shall apply in any case where—

(a) in consequence of any enactment or statutory order passed or made before or after the passing of this Act (hereafter in this Act referred to as "the special Act") or anything done thereunder, any of the following changes (hereafter in this Act referred to as "the change in functions") have occurred in relation to any local or public authority (hereafter in this Act referred to as "the local authority"), namely, that any functions have ceased to be exercisable by the

local authority (whether as a result of a transfer to another authority or otherwise) or any functions have been transferred to the local authority from another authority or any functions exercisable by the local authority have been altered ; and

- (b) the special Act makes provision for the compensation of affected officers of the local authority who held office immediately before the special Act came into operation, and for that purpose applies or incorporates the Fourth Schedule to the Local Government Act, 1933, with or without modifications or adaptations :

Provided that this section shall not affect the application of section five and section six of this Act. [1051]

Definitions.—For the meaning of “ enactment,” “ office,” “ officer,” see s. 8, *post*.
Local Government Act, 1933, Schedule IV.—The Schedule, as modified, is set out in the Schedule to the present Act, *post*.

2. Compensation of officers of a local authority on war service who are affected by change of functions.—(1) Subject to the provisions of this section, if in consequence of the change in functions any officer of the local authority on war service has suffered any direct pecuniary loss by reason that, on ceasing to be engaged in war service, he was not re-employed in his former office or was so re-employed with reduced emoluments, or by reason of the determination of his office or the reduction of his emoluments after he was so re-employed, he shall be entitled to recover compensation for that loss from the local authority :

Provided that no person shall, by virtue of this subsection, be entitled to recover compensation for any loss, if provision is made for compensating him for that loss by or under any other enactment which is for the time being in force except the special Act and the Reinstatement in Civil Employment Act, 1944. [1052]

(2) No person shall, by virtue of the last foregoing subsection, be entitled to recover compensation for any loss suffered by him by reason of his not being re-employed in his former office on ceasing to be engaged in war service unless, within two months from the date on which he ceased to be so engaged or the date of the passing of this Act, whichever is the later, he gives notice in writing that he is available for re-employment to the local authority or, if the local authority have ceased to exist in consequence of the change in functions, to the authority from whom the compensation is recoverable by virtue of subsection (5) of this section :

Provided that, if the officer was prevented from notifying the said authority within the said two months by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period. [1053]

(3) For the purposes of this section a person—

- (a) who on ceasing to be engaged in war service refused an offer of re-employment in his former office on the ground that he would be required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform immediately before the date on which the special Act came into operation, or, in the case of a person engaged in war service on that date, which he would have been required to perform immediately before that date if he had continued to be employed in that office ; or
- (b) who on ceasing to be engaged in war service was not re-employed in his former office, or was so re-employed with reduced emoluments, because his services were not required or his duties were diminished (no misconduct being established) ; or

- (c) who at any time during the period of five years from the said date or a period of twelve months from the date on which he ceased to be engaged in war service, whichever period last expires, has relinquished any office in the service of the local authority on the ground that he has been required to perform such duties as are referred to in paragraph (a) hereof; or
- (d) whose office, being an office in the service of the local authority has been determined or whose emoluments have been reduced during the period of five years from the date on which the special Act came into operation because his services were not required or his duties were diminished (no misconduct being established);

shall be deemed unless the contrary is shown to have suffered direct pecuniary loss in consequence of the change in functions and by reason of the matters referred to in subsection (1) of this section.

References in paragraph (c) and paragraph (d) of this subsection to the service of the local authority shall, in a case where the change in functions consists in the transfer of functions from the local authority to another local or public authority other than the Crown, be construed as including references to the service of that other authority. [1054]

(4) The provisions of the Fourth Schedule to the Local Government Act, 1933, as set out with modifications in the Schedule to this Act, shall have effect in relation to claims for compensation under this section. [1055]

(5) Where the special Act provides that the compensation of affected officers of the local authority who held office immediately before the special Act came into operation is to be recoverable from an authority other than the local authority, the compensation recoverable under subsection (1) of this section shall be recoverable from that other authority, and accordingly references in the Schedule to this Act to the local authority shall be construed as references to that other authority, and it shall be the duty of the local authority on receiving a notification under subsection (2) of this section, to notify the contents thereof to that other authority and state whether or not the local authority propose to re-employ the officer concerned. [1056]

(6) Where any person is entitled to claim compensation under this section and under the special Act in respect of the same loss, he shall be entitled to claim compensation either under this section or under the special Act but not under both. [1057]

Object of the section.—For the object of this section, and of the Act generally, see Preliminary Note, *ante*.

Notice.—No person can recover compensation under this section unless he gives notice in writing to the local authority (or to the authority from whom compensation is recoverable) within two months from ceasing to be engaged in war service, or, if prevented by sickness or other reasonable cause, as soon as reasonably possible after the expiration of that period.

Definitions.—For the meaning of “change in functions,” “local authority” and “special Act,” see s. 1, *ante*; and for the meaning of “emoluments,” “enactment,” “office,” “officer,” “officer of the local authority on war service,” “re-employed with reduced emoluments” and “war service,” see s. 8, *post*.

3. Provisions as to teachers in certain schools.—(1) Subject to the following provisions of this section, if in consequence of any school becoming a special agreement school or a controlled school, or in consequence of the discontinuance within six years after the passing of the Education Act, 1944, of any school maintained by a local education authority, any person who, at the date when the school became a special agreement or a controlled school, or before the school was discontinued, as the case may be, was engaged in war service, having ceased to be a teacher in that school in order to be so engaged, has suffered direct pecuniary loss by reason that, on ceasing to be engaged in war service, he was not re-employed as a teacher in the school, or was so re-employed with reduced, emoluments or by reason of the determination of his appointment or the reduction of his emoluments after he

was so re-employed, he shall be entitled to recover compensation for that loss from the local education authority :

Provided that no person shall, by virtue of this subsection, be entitled to recover compensation for any loss, if provision is made for compensating him for that loss by or under any other enactment which is for the time being in force except the Reinstatement in Civil Employment Act, 1944.

[1058]

(2) Subsections (2) and (4) of the last foregoing section and the Schedule to this Act shall apply to claims for compensation under this section as they apply to claims for compensation under that section, subject to the modifications that references to subsection (1) of that section shall be construed as references to subsection (1) of this section and the references to the local authority shall be construed as references to the local education authority.

[1059]

Special agreement school or controlled school.—These are two of the three categories of voluntary schools under the classification of s. 15 of the Education Act, 1944. Special agreement schools are schools in respect of which local education authorities have entered into special agreements with the managers to pay not less than 50 per cent. and not more than 75 per cent. of the cost of providing new non-provided school buildings for senior children. Controlled schools are schools in respect of which all financial obligations have passed to the local education authority owing to the inability or unwillingness of the managers to meet half the cost of necessary alterations or improvements.

Definitions.—For the meaning of " emoluments," " war service," see s. 8, *post*.

4. Power to pay compensation in certain additional cases.—(1) Where any person has been engaged in war service and it appears to the authority to whom any claim for compensation under section two or section three of this Act would be made by that person that he would have been entitled to claim such compensation but for the fact that his war service came to an end before the date on which the special Act came into operation or, as the case may be, the school became a special agreement school or a controlled school or was discontinued, the authority may, if in all the circumstances of the case it considers it just to do so, pay the like compensation as if his war service had continued until the said date. [1060]

(2) Any person applying for compensation by virtue of this section shall make a claim therefor in accordance with the Schedule to this Act, but shall include in the statement delivered with the claim such further particulars as may be prescribed, and the said Schedule (and in particular paragraph 8 thereof which gives a right of appeal to the Minister) shall apply in relation to the authority's decision on the claim in like manner as in the case of decisions on other claims. [1061]

Object of the section.—This section covers the case of a person who has been engaged in, but who has ceased to be in, war service and who has not returned to his employment before the passing of the special Act. The section provides that in such circumstances, although the officer does not come within the compulsorily operative sections of the Act, there is nevertheless a discretion for the authority, if it considers it just, to pay compensation as if his war service had continued until the date in question.

Minister.—The expression " Minister " means the Minister of Health or, where appropriate, the Minister of Education (s. 8, *post*).

War service.—See s. 8, *post*.

5. Power by Order in Council to provide for the compensation of officers of public authorities and public utility undertakers on war service.—(1) Where it appears to His Majesty that, in the case of any change affecting the exercise of functions of any public authority or public utility undertakers (not being a case to which the foregoing provisions of this Act apply), any enactment or statutory order makes provision for the compensation of affected officers of the authority or undertaking who hold office before any such change occurs, and that it is expedient to make provision for the compensation of persons who have been engaged in war service and have not been re-employed or have suffered loss of employment, reduction of emoluments or deterioration in their conditions of employment by reason of any such change, he may by

Order in Council make provision for the compensation of the last-mentioned persons similar to the provision made by the foregoing provisions of this Act for the compensation of officers of local authorities on war service.

Any such Order in Council may make provision as respects changes in functions occurring before or after the date of the Order. [1062]

(2) Every Order in Council made under this section shall be laid as soon as may be before Parliament, and if an Address is presented to His Majesty by either House of Parliament, within the period of forty days beginning with the day on which any such Order is laid before it, praying that the Order be annulled, His Majesty in Council may annul the Order and it shall thereupon cease to have effect, but without prejudice to the validity of anything done thereunder in the meantime or to the making of a new Order.

In reckoning the said period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [1063]

(3) Section one of the Rules Publication Act, 1893, shall not apply to any Order in Council made under this section. [1064]

(4) Any Order in Council made under this section may be varied or revoked by a subsequent Order made in like manner. [1065]

Definition.—For the meaning of “public utility undertakers,” see s. 8, *post*.

6. Amendment of Fourth Schedule to Local Government Act, 1933, and section sixteen of Electricity (Supply) Act, 1919.—(1) Any period during which a person has been engaged in war service shall be reckoned for the purposes of the Fourth Schedule to the Local Government Act, 1933, as applied by or incorporated, with or without modifications or adaptations, in any enactment or statutory order (except this Act or any other enactment or order which contains a provision to the like effect as this section), as a period of service in his office, and where any such period is so reckoned, his emoluments during that period shall, for the purposes of sub-paragraph (2) of paragraph 4 of the said Schedule as so applied or incorporated, be deemed to be such as he would have received if he had not been engaged in war service. [1066]

(2) Section sixteen of the Electricity (Supply) Act, 1919 (which provides among other matters for the reckoning of certain kinds of war service as service under the authorised undertakers), as amended by any subsequent enactment, and the said section as so amended and as applied, with or without modifications or adaptations, by any subsequent enactment, shall have effect as if the reference to “the present war” or to “the war” included a reference to “the period of the present emergency” as defined by the Local Government Staffs (War Service) Act, 1939. [1067]

(3) This section shall be deemed to have had effect as from the first day of September, nineteen hundred and thirty-nine. [1068]

Local Government Act, 1933, Schedule IV.—The Schedule, as modified, is set out in the Schedule to the present Act, *post*.

Local Government Staffs (War Service) Act, 1939.—The definition of “the period of the present emergency” is given in s. 14 thereof, and means “the period beginning with the first day of September, nineteen hundred and thirty-nine, and ending with such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end.”

7. Increase of grants to be defrayed out of moneys provided by Parliament.—Any increase ascribable to the provisions of this Act in any grant payable by any Minister of the Crown shall be defrayed out of moneys provided by Parliament. [1069]

8. Interpretation.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them:—

“emoluments” includes all salary, wages, fees, poundage and other payments paid or made to an officer as such for his own use, including

the money value of any apartments, rations or other allowances in kind appertaining to his office, but does not include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies, or clerical, or other assistance ;

“ enactment ” includes an enactment in a local or personal Act ;

“ office ” means any place, situation or employment, and the expression

“ officer ” shall be construed accordingly ;

“ the Minister ” means the Minister of Health :

Provided that the said expression—

(a) in a case where the special Act substitutes for the purposes of the Fourth Schedule to the Local Government Act, 1933, any other Minister for the Minister of Health, means that other Minister ;

(b) in a case to which section three or section four of this Act applies, being a case relating to a school, means the Minister of Education ;

“ officer of the local authority on war service ” means a person who at the date when the special Act came into operation was engaged in war service, having ceased to be an officer of the local authority in order to be so engaged or who, being an officer of that authority at that date, ceased on or after that date to be an officer of that authority in order to be so engaged :

Provided that, in the application of this Act in a case where the change in functions arose in consequence of the Agriculture (Miscellaneous Provisions) Act, 1944, references in this definition to an officer shall be construed as referring only to officers employed in a whole-time capacity wholly or mainly on or in connection with the giving of advice or education on agricultural matters, and this definition shall only include persons who have, between the twenty-third day of August, nineteen hundred and thirty-nine, and the day appointed by the Minister of Agriculture and Fisheries under section one of the said Act, been continuously employed in a whole-time capacity in local government service (within the meaning of the said Act) or, while not so employed, been engaged in a whole-time capacity in war service or partly engaged in war service and partly employed in such local government service ;

“ prescribed ” means prescribed by regulations made by the Minister ;

“ public utility undertakers ” means any persons authorised by any enactment or order to carry on any railway, canal, inland navigation, dock, harbour, gas, electricity or water undertaking ;

“ statutory order ” means any order or scheme made under an enactment ;

“ war service ” has the same meaning as in the Local Government Staffs (War Service) Act, 1939 :

Provided that, in a case where the said expression has a different meaning in the special Act or in any such enactment or statutory order as is referred to in section five of this Act, it shall have the same meaning in this Act. [1070]

(2) References in this Act to the re-employment of any person with reduced emoluments shall be construed as referring to re-employment with emoluments less than those which he would have received in respect of employment in his former office or, as the case may be, employment as a teacher immediately before the date on which he ceased to be engaged in war service if he had continued to be so employed until that date. [1071]

(3) Where the special Act provides for appointing a day which, for the purposes of the provisions relating to the compensation of officers, is substituted for the date on which the special Act comes into operation, references in this Act to the said date shall be construed as referring to the said appointed day. [1072]

Local Government Staffs (War Service) Act, 1939.—"War service," as defined by s. 14 thereof, means "service, during the period of the present emergency, in any of the naval, military or air forces of the Crown, any employment during that period which the Minister considers may properly be treated for the purposes of this Act in the same manner as service in those forces, and any employment during that period in civil defence service which is not by virtue of section nine of this Act deemed for superannuation purposes to be employment by a local authority."

9. Application to Scotland.—This Act shall, in its application to Scotland, have effect subject to the following modifications—

- (a) for references to the Minister of Health there shall be substituted references to the Secretary of State;
- (b) for references to the Fourth Schedule to the Local Government Act, 1933, there shall be substituted references to the provisions of section one hundred and twenty of the Local Government (Scotland) Act, 1889, or of the Second Schedule to the Rating (Scotland) Act, 1926, and paragraph (i) of subsection (1) of section seven of the Local Government (Scotland) Act, 1929;
- (c) in section two, for subsection (4) there shall be substituted the following subsection—
 “(4) The provisions of the Schedule to this Act shall have effect in relation to claims for compensation under this section.”;
- (d) in subsection (1) of section six for the words “sub-paragraph (2) of paragraph 4 of the said Schedule” there shall be substituted the words “the said provisions”;
- (e) in paragraph 1 of the Schedule the reference to a justice of the peace shall be construed as including a reference to the convener or vice-convener of a county council, to the provost or acting chief magistrate of a burgh or to the chairman of a district council; and
- (f) the provisions of paragraph (i) of subsection (1) of section seven of the Local Government (Scotland) Act, 1929, shall have effect in relation to the computation of the service of an officer for the purposes of the Schedule to this Act. [1073]

10. Provisions as to Northern Ireland.—(1) Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws, as respects officers of local and public authorities and public utility undertakers in Northern Ireland and as respects teachers in Northern Ireland, for purposes similar to the purposes of this Act. [1074]

(2) This Act, except the last foregoing subsection, shall not extend to Northern Ireland. [1075]

11. Citation.—This Act may be cited as the Compensation of Displaced Officers (War Service) Act, 1945. [1076]

Section 2

SCHEDULE

1. Procedure for claiming compensation.—(1) For the purpose of enabling a claim for compensation to be assessed, the claimant shall deliver to the local authority with the claim a statement containing such particulars as may be prescribed.

(2) The said statement shall be accompanied by a statutory declaration that it is a true statement to the best of the knowledge, information and belief of the claimant.

(3) The authority shall forthwith take the claim into consideration and assess the just amount of compensation, if any, and shall forthwith inform the claimant of their decision.

(4) If a local authority fail to inform any claimant of their decision on his claim within six months after it has been delivered to them, the Minister may, on application made to him by the claimant, direct the authority to do so within such time, not being less than one month, as may be specified in the direction.

(5) A claimant, if so required by any member of the local authority by notice sent through the clerk of the authority, shall attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer on oath, which any justice of the peace present may administer, all questions asked by any member of the authority or committee touching the matters set forth in his claim and in the said statement, and shall further produce all books, papers and documents in his possession or under his control relating to the claim.

2. *General considerations to be applied.*—For the purpose of determining whether compensation is payable to an officer and, if so, the amount of such compensation, regard shall be had to—

- (a) the conditions upon which his appointment was made ;
- (b) the nature of his office ;
- (c) all the other circumstances of the case.

3. *Power to award compensation by way of a lump sum in certain cases.*—Compensation may be awarded either by way of an annual sum or by way of a lump sum representing the capital value of an annual sum.

4. *Assessment of compensation for loss of whole-time office.*—(1) The annual sum payable as compensation in respect of the loss of a whole-time office shall not exceed the aggregate of the following sums—

- (i) for every year of the officer's service one-sixtieth of an amount equal to the annual pecuniary loss which he has sustained by reason of the loss of the office ;
- (ii) in the case of service for twenty years or upwards, a sum equal to ten-sixtieths of the said amount ;
in the case of service for fifteen years and less than twenty years, a sum equal to seven-sixtieths of the said amount ;
in the case of service for ten years and less than fifteen years, a sum equal to five-sixtieths of the said amount ;
in the case of service for five years and less than ten years, a sum equal to three-sixtieths of the said amount ;
in the case of service for less than five years, a sum equal to one-sixtieth of the said amount ; and
- (iii) in the case of an officer who was appointed as a specially qualified person or who before his appointment had been employed (otherwise than in an office within the meaning of this Schedule) as a deputy, assistant or clerk by a permanent officer for the purpose of the discharge of the latter's official duties, such additional sum, if any, not exceeding ten-sixtieths of the said amount, as the local authority in their discretion and in consideration of his special qualifications or of his previous employment, as the case may be, may think fit to award ;

Provided that the compensation shall not in any event exceed two-thirds of the said amount.

(2) In assessing the amount of pecuniary loss sustained by an officer by reason of the loss of his office, regard shall be had as respects any emoluments either—

- (a) to the amount of the emoluments which he received in respect of that office immediately before the material date or, in the case of an officer who, on ceasing to be engaged in war service, was not re-employed in his former office, to the amount of the emoluments which he would have received in respect of that office immediately before the material date if he had continued to be employed in that office until that date ; or
- (b) to the average amount of the emoluments which he received or would have received as aforesaid in respect of that office during the period of five years next before the said date or such shorter period as may be reasonable in the circumstances.

(3) In assessing the amount of any pecuniary loss sustained by an officer by reason of the loss of his office, regard shall also be had to—

- (a) any increase of the emoluments enjoyed by the officer at the material date which he has obtained by virtue of the special Act or of anything done in pursuance of or in consequence of the special Act; and
- (b) the emoluments of any office or other public appointment which he would have obtained on or after the material date if he had accepted an offer made to him.

(4) For the purpose of assessing any compensation payable in respect of the loss of a whole-time office or of any two or more offices which in the aggregate involve the whole-time service of the officer, any previous period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.

(5) Where the material date has occurred at any time other than at the expiration of a complete year of the officer's service, the portion then expired of that year shall, for the purpose of calculating any period of service under this paragraph, be treated as a complete year if it exceeds six months, and if it does not shall be ignored.

5. *Assessment of compensation for loss of part-time appointment.*—In the case of a claim for compensation in respect of the loss of a part-time office, the compensation, if any, which would have been payable if the office had been a whole-time office may be reduced by one quarter or by such other amount, if any, as may in the circumstances be reasonable:

Provided that no reduction shall be made in the case of an officer who immediately before the material date held two or more part-time offices and devoted the whole of his time to the duties of such offices.

6. *Assessment of compensation for reduction of emoluments.*—In the case of an officer who suffers any reduction of the emoluments of an office, the compensation shall not exceed a sum bearing the same proportion to the amount of compensation which could have been awarded if he had lost his office, as the amount by which the emoluments of the office are reduced bears to the amount of those emoluments without reduction.

7. *War service to be reckoned in determining compensation.*—(1) If an officer was temporarily absent from his office during the late war whilst serving in His Majesty's forces, or the forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence; such period of temporary absence shall be reckoned as a period of service in his office:

Provided that in the case of an officer who, after the eleventh day of November, nineteen hundred and eighteen, voluntarily extended his term of service in the forces, no period of absence during any such extension shall be reckoned.

(2) Any period during which an officer has been engaged in war service within the meaning of the Local Government Staffs (War Service) Act, 1939, shall be reckoned as a period of service in his office.

8. *Right of appeal.*—If the claimant is aggrieved by the failure of the local authority to inform him of their decision upon his claim within the time required by any direction of the Minister, or by the refusal of the authority to grant any compensation, or by the amount of compensation assessed, the claimant may, within three months after the failure, or after the date on which he receives notice of the decision of the authority, as the case may be, appeal to the Minister, and the Minister shall consider the case and determine whether any compensation, and if so what amount, ought to be granted to the claimant, and his determination shall be final.

9. *Date on which compensation commences.*—The sum payable as compensation shall be or commence to be payable at the date fixed by the local authority on granting the compensation, or, in case of appeal, by the Minister, and shall be recoverable as a debt due from the authority.

10. *Suspension of compensation.*—(1) If a person receiving compensation under this Act—

- (a) obtains any office or other public appointment; or
- (b) receives, by virtue of the special Act, or of anything done in pursuance of or in consequence of the special Act, any increase of the emoluments which were enjoyed by him at the date as at which the compensation was assessed,

he shall not, so long as he holds that office or other public appointment or receives those increased emoluments, be entitled to receive any greater sum by way of compensation in respect of the office for which compensation is awarded than would make up the amount, if any, by which the emoluments which he is receiving falls short of the emoluments of the office in respect of which compensation was awarded :

Provided that where a person held two or more offices at the date as at which the compensation was assessed or has been awarded compensation in respect of two or more offices, the Minister may, on the application of that person or of any authority by whom the compensation is payable, modify the operation of the foregoing sub-paragraph in relation to that person so far as is, in the opinion of the Minister, necessary in order equitably to meet the circumstances of the case.

(2) Where an officer to whom compensation has been awarded under this Act subsequently becomes entitled to a superannuation allowance in respect of any office or other public appointment which he has accepted after the material date, and in calculating the amount of such allowance account is taken of any period of service in respect of which compensation is payable, then, if the compensation does not exceed such part of the superannuation allowance as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the superannuation allowance as aforesaid, it shall be reduced by an amount equal to that part of the allowance.

(3) Where an officer to whom compensation has been awarded under this Act has also recovered, whether before or after the award of compensation under this Act, compensation under the Reinstatement in Civil Employment Act, 1944, the last-named compensation shall be treated for the purposes of sub-paragraph (1) of this paragraph as if it were emoluments received by virtue of the special Act during the period of twelve months beginning with the date on which that compensation was recovered.

11. *Forms*.—The Minister may prescribe the form of any notice, statement, award or other document to be used in connection with a claim for compensation, and the forms so prescribed or forms as near thereto as circumstances admit, shall be used in all cases to which the forms are applicable.

12. *Interpretation*.—(1) For the purposes of this Schedule—

“ public appointment ” means any employment the emoluments of which are payable out of public funds ;

“ service ” means whole-time or part-time service in any office after the officer has attained the age of eighteen years ;

“ material date ”—

(a) in the case of an officer who, on ceasing to be engaged in war service, was not re-employed in his former office, or was so re-employed with reduced emoluments, means the date on which he ceased to be engaged in war service except that for the purposes of paragraph 5 of this Schedule it means the date on which he became so engaged ;

(b) in the case of an officer who, on ceasing to be engaged in war service, was re-employed in his former office without any reduction of emoluments and whose office has been subsequently determined or whose emoluments have been subsequently reduced means the date on which the determination or reduction of emoluments took effect.

(2) Any reference in this Schedule to the loss of an office or to a reduction of the emoluments of an office shall be construed as referring to a case where the officer, on ceasing to be engaged in war service, was not re-employed in that office or, as the case may be, was re-employed therein with reduced emoluments, as well as to a case where the office was determined or, as the case may be, the emoluments reduced after the officer had been re-employed therein on ceasing to be engaged in war service. [1077]

Schedule.—This Schedule reproduces, with modifications, Schedule IV to the Local Government Act, 1933. The principal modifications are to paragraph 4 (2) (extended to cover the case of an officer ceasing to be engaged in war service but not re-employed in his former office); paragraph 7 (sub-paragraph (2) added); paragraph 10 (sub-paragraph (3) added); and paragraph 12 (definitions of “ office ” and “ scheme or order ” deleted; definition of “ material date ” amended; sub-paragraph (2) added).

CASES

Emergency Legislation—Local government—Remuneration of officers—Resolution of local authority to pay 75 per cent. of difference between employee's war service pay and civil remuneration—Whether compensation payable for abolition of office to be deducted from amount payable under resolution—“Remuneration.”—Local Government Act, 1933 (c. 51), ss. 150, 305, Sched. IV, paras. 3, 10—Local Government Staffs (War Services) Act, 1939 (c. 94), s. 1 (1), (2)—Old Age and Widows' Pensions Act, 1940 (c. 13), s. 17 (1), (3).

The appellant was employed by the respondents, the Durham County Council, as an assistant relieving officer at a salary of £238 a year until August 10, 1940, when his office was abolished as a result of the Old Age and Widows' Pensions Act, 1940. He was, however, immediately re-engaged by the respondents as a temporary clerk at a salary of £198 a year, which would have risen to £262 a year by 1944 if he had continued in the respondents' service. On January 2, 1941, the appellant joined His Majesty's Forces and his war service pay, in 1944, was £95 a year. On November 8, 1939, under powers conferred by the Local Government Staffs (War Service) Act, 1939, s. 1, the respondents passed a resolution providing that, subject to certain conditions, they would pay an employee serving in His Majesty's Forces during the present emergency “a sum equal to 75 per cent. of the difference between his war service pay and the remuneration (if greater than his war service pay) which he would have received from the county council but for his joining the forces. By para. 3 of the resolution, “remuneration” was defined as “salary wages and emoluments.” On the determination of his employment as assistant relieving officer, the appellant became entitled, under the Old Age and Widows' Pensions Act, 1940, s. 17, to recover from the respondents compensation for loss of office in accordance with the provisions laid down in the Local Government Act, 1933, Sched. IV. The pension to which he was thus entitled was originally assessed at £63 per year. The appellant contended that under the resolution of November 8, 1939, he was entitled to be paid £124 (*i.e.*, 75 per cent. of the difference between his war service pay and the salary he would have been receiving) and that he was also entitled to the £63 at which his pension was originally assessed. The respondents contended that (i) the £63 pension payable by them to the appellant was part of the remuneration and must be regarded as liquidating part of their obligation, and, therefore, the amount payable under the resolution should be calculated after deducting the pension; (ii) if, on the true construction of the resolution, the appellant were entitled to the £63 pension as well as 75 per cent. of the difference between his war service pay and his civil remuneration, the resolution would involve a payment *ultra vires* the Local Government Staffs (War Service) Act, 1939, s. 1:—

Held: (i) the pension of £63 receivable by the appellant as compensation under the Old Age and Widows' Pensions Act, 1940, was not remuneration for the purposes of the resolution, and the appellant was entitled to 75 per cent. of the difference between his war service pay and civil remuneration, as provided by the resolution, without taking into account the amount receivable by him as compensation under the 1940 Act.

(ii) the £63 pension was payable under the 1940 Act and was, therefore, not a payment made under the powers given by sect. 1 of the 1939 Act. The payment of this sum could not render the resolution *ultra vires* the 1939 Act.—*LALLY (JAMES) v. DURHAM COUNTY COUNCIL*, [1945] 1 All E. R. 311; 43 L. G. R. 69, C. A. [1078]

OPEN SPACES

STATUTES :—
Camps Act, 1945

PAGE

353

Forestry Act, 1945

PAGE

353

STATUTES

CAMPS ACT, 1945

(8 & 9 Geo. 6, c. 26)

PRELIMINARY NOTE

The Camps Act, 1939, provided for the formation of two non-profit making companies, one for England and Wales and one for Scotland, for the purpose of constructing, maintaining and managing permanent camps which could be used in the event of war to accommodate evacuated school children and to supplement existing billeting arrangements. The majority of the camps in England and Wales were, during the war, occupied by school children evacuated from danger areas, and it is intended, now that the emergency is over, that they shall be used as school and holiday camps. In these circumstances the Minister of Education has become the appropriate Minister to exercise jurisdiction over them and this Act accordingly transfers to him the functions which, under the 1939 Act, were vested in the Minister of Health. [1079]

An Act to transfer the functions of the Minister of Health under the Camps Act, 1939, to the Minister of Education. [15th June, 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Transfer to Minister of Education of functions of Minister of Health.—

(1) The powers and duties of the Minister of Health under the Camps Act, 1939, shall be transferred to the Minister of Education. [1080]

(2) In the said Act, in the provisions of the Local Government Act, 1933, applied by section two of the said Act of 1939, and in any agreement or other document relating to the company recognised for England and Wales for the purposes of section one of the said Act of 1939, references to the Minister of Health shall be construed as references to the Minister of Education; and anything done before the passing of this Act for the purposes of the said Act of 1939, or of any such agreement or document as aforesaid, by the Minister of Health shall be treated for those purposes as done by the Minister of Education. [1081]

Local Government Act, 1933.—S. 2 of the Camps Act, 1939, gave to the companies the same powers of compulsory purchase, by compulsory order confirmed by the Minister of Health, as is given to local authorities by s. 161 of the Local Government Act, 1933.

2. Short title and citation.—This Act may be cited as the Camps Act, 1945, and this Act and the Camps Act, 1939, may be cited together as the Camps Acts, 1939 and 1945. [1082]

THE FORESTRY ACT, 1945

(8 & 9 Geo. 6, c. 35)

PRELIMINARY NOTE

The Forestry Commission was established by the Forestry Act, 1919, with the object of promoting the interests of forestry, the development of afforestation, and the production and supply of timber in the United Kingdom. The Act also established the Forestry Fund, out of which the salaries of the Commissioners and other expenses were to be paid. By the Forestry (Transfer of Woods) Act, 1923, the Crown was empowered to make provision, by Order in Council, for the transfer to

the Forestry Commissioners of woods and forests under the management or control of the Commissioners of Crown Lands, or those vested in or held on lease by any Government department; and also to make provision for the exception or reservation of any mineral or other rights in connection with any property transferred. The Forestry Act, 1927, increased the number of Forestry Commissioners from eight to ten, and empowered them to make byelaws with respect to land vested in them or under their control.

The object of the present Act is to prepare for the development of forestry by securing Ministerial responsibility for forestry policy and administration. Under the Act the Minister of Agriculture and Fisheries and the Secretary of State concerned with agriculture in Scotland become jointly responsible for forestry policy and for supervising the measures for its execution. The Forestry Commission is retained as a single continuing body responsible directly to Ministers for carrying out all silvicultural operations, including the training of foresters, research, and the management of forest holdings and generally for giving advice on forestry policy.

S. 1 provides for the reconstitution of the Forestry Commission which will, as formerly, be appointed by the Crown. In view of the future Ministerial responsibility for the activities of the Commission, Members of Parliament are henceforth disqualified for appointment as Commissioners.

S. 2 provides that the Commissioners shall carry out their functions in accordance with direction from Ministers.

S. 3 provides for the appointment by the Commissioners of committees for England, Scotland and Wales respectively, and for the delegation to such committees of such functions as the Commissioners may think fit.

S. 4 transfers from the Commissioners to Ministers the powers to acquire land. The provisions of the Forestry Act, 1919, relating to the acquisition of land are repealed (see also Schedule II) and new powers of acquisition, either by agreement or compulsorily, are conferred on the Minister of Agriculture and Fisheries as regards England and Wales and on the Secretary of State concerned with agriculture in Scotland as regards Scotland. Land held by the Commission at the time of the passing of the Act (June 15, 1945) is transferred to the Ministers. For the purpose of the acquisition of land by the appropriate Minister the Lands Clauses Acts, with some sections excepted and, in the case of compulsory purchase, some sections of the Railways Clauses Consolidation Act, 1845, or the corresponding Scottish Act, are incorporated with s. 4 of the present Act (see Schedule I, Part I). Land belonging to the National Trust may also be compulsorily purchased. The Commissioners will have placed at their disposal by Ministers land already planted, or to be planted; and they will be responsible for its management and for all silvicultural operations and the timber on such land will belong to them. The Ministers will manage and use land not placed at the disposal of the Commissioners and will have powers to sell land not required for afforestation. The procedure for the making of compulsory purchase orders is laid down in Schedule I, Part II.

S. 5 limits the powers of acquiring land in certain cases where amenities or rights of public access are affected, or the land is owned by a local authority or statutory undertakers.

S. 6 makes financial provisions. The Forestry Fund established by the 1919 Act remains, and will be fed by annual payments out of monies provided by Parliament. There will be defrayed out of the Fund capital payments made in acquiring land under the Act, and any rent or other outgoings payable in respect of land placed at the disposal of the Commissioners for afforestation. There will be paid into the Fund any receipts of a capital nature in respect of the sale, lease or exchange of lands vested in or acquired by the Ministers and also periodical sums determined by the Treasury in respect of land vested in or acquired by the Ministers, but not placed at the disposal of the Commissioners for afforestation. There will be defrayed out of monies provided by Parliament any administrative expenses incurred by the Ministers in the management and use of lands not placed at the disposal of the Commissioners, including any rent or other outgoings; and any receipts from such lands are to be paid into the Exchequer.

S. 7 provides for the preparation by the Commissioners and for the auditing of the accounts of the Forestry Fund and the presentation of such accounts to Parliament.

S. 8 provides for superannuation schemes for the Commissioners and for officers of the Commission, the expenditure on which is to be met out of the Forestry Fund. [1088]

An Act to make provision for the reconstitution of the Forestry Commission and as to the exercise of the functions of the Forestry Commissioners, the acquisition of land for forestry purposes and the management, use and disposal of land so acquired; and in connection with the matters aforesaid to amend the Forestry Acts, 1919 to 1927, and certain other enactments relating to the Forestry Commissioners. [15th June, 1945.]

1. Reconstitution of Forestry Commission.—(1) The Forestry Commission shall consist of a chairman and not more than nine other Commissioners appointed by His Majesty by warrant under the sign manual, and every Commissioner shall hold and vacate office in accordance with the terms of the instrument under which he is appointed, and a Commissioner who vacates office shall be eligible for reappointment. [1084]

(2) At least three of the said Commissioners (hereafter in this Act referred to as "the Commissioners") shall be persons who have special knowledge and experience of forestry and at least one of the Commissioners shall be a person who has scientific attainments and a technical knowledge of forestry. [1085]

(3) A person shall be disqualified for being appointed or being a Commissioner so long as he is a member of the Commons House of Parliament. [1086]

(4) The foregoing provisions of this section shall not affect any Commissioner holding office at the date of the passing of this Act, not being a person disqualified by the last foregoing subsection, and any such Commissioner shall continue to hold office for the remainder of the term for which he was appointed. [1087]

(5) There shall be paid to such of the Commissioners as may be determined by the Ministers with the approval of the Treasury such salaries or other emoluments as may be so determined. [1088]

(6) The Commissioners may, subject to such limit as to number as the Treasury may determine, appoint and employ such officers and servants for the purposes of the Forestry Acts, 1919 to 1945, as the Commissioners think necessary, and the Commissioners may remove any officer or servant so appointed or employed, and there shall be paid to such officers and servants such salaries or remuneration as the Ministers may, with the approval of the Treasury, determine. [1089]

Object of the section.—The Forestry Commission, which was originally established under the Forestry Act, 1919, is reconstituted under the present section. The Commissioners are to continue, as formerly, to be appointed by the King, to the maximum number of ten, including a chairman. At least three of this number are to be persons having special knowledge and experience of forestry and at least one is to have scientific attainments and a technical knowledge of forestry. The former provision of s. 1 of the 1919 Act, that at least two Commissioners should have special knowledge and experience of forestry in Scotland, is omitted. It was, however, stated in the House of Commons by the Minister of Agriculture (Mr. R. S. Hudson), in moving the Second Reading of the Bill, that it was the intention of the Government "to ensure that the Commission includes persons with special knowledge and experience in each of the three countries, England, Scotland and Wales" (410 H. of C. Official Report 1743). No member of the House of Commons may now sit on the Commission.

Forestry Acts, 1919 to 1945.—These are the Forestry Act, 1919; the Forestry (Transfer of Woods) Act, 1928; the Forestry Act, 1927; and the present Act. See s. 10 (1), *post*.

2. Exercise of functions of Commissioners to be subject to direction of Ministers.—The Commissioners shall, in exercising their functions under the Forestry Acts, 1919 to 1945, comply with such directions as may be given to them by the Ministers:

Provided that this section shall not affect any functions exercisable by virtue of any Regulation in force under the Emergency Powers (Defence) Acts, 1939 and 1940, by the Minister of Supply instead of by the Commissioners, so long as those functions remain so exercisable. [1090]

Forestry Acts, 1919 to 1945.—See note to s. 1, *supra*.

Emergency Powers (Defence) Acts, 1939 and 1940.—Note in particular Regulation 68 of the Defence (General) Regulations, 1939 (S. R. & O., 1939, No. 927, as amended), which empowers the Minister of Supply to provide by order for regulating and restricting the felling of trees, etc.

3. Appointment of committees for England, Scotland and Wales and delegation of functions thereto.—(1) The Commissioners shall by order appoint committees for England, Scotland and Wales, respectively, which shall consist partly of members who are Commissioners or officers of the Commissioners and partly of members, not exceeding three in number, who are not Commissioners or such officers, and the Commissioners may delegate, subject to such restrictions or conditions as they think fit, any of their functions to a committee so appointed. [1091]

(2) An order under this section appointing a committee shall make provision as to the constitution (including the terms of office of the members), quorum and procedure of that committee, and there shall be paid to the members of any such committee who are not Commissioners or officers of the Commissioners such travelling and other allowances as the Ministers may, with the approval of the Treasury, determine, and all such allowances shall be defrayed out of the Forestry Fund. [1092]

(3) Section five of the Forestry Act, 1919 (which provides for the delegation of functions by the Commissioners to assistant commissioners appointed for England and Wales and for Scotland respectively), and section six of the said Act (which provides for the establishment of consultative committees for England, Scotland and Wales respectively) shall cease to have effect. [1093]

4. Transfer to Minister of Commissioners' power to acquire land.—

(1) The provisions of the Forestry Act, 1919, relating to the acquisition of land for forestry purposes shall cease to have effect, and the following provisions of this section shall have effect in lieu thereof. [1094]

(2) The appropriate Minister may by agreement acquire, whether by way of purchase, lease or exchange, or may purchase compulsorily, any land which in his opinion is suitable for afforestation or for purposes connected with forestry or must necessarily be acquired together with any such land as aforesaid, and for the purposes of such acquisition the enactments referred to in Part I of the First Schedule to this Act shall be incorporated with this section to such extent and subject to such modifications and adaptations as are specified in the said Part I. [1095]

(3) The powers of the appropriate Minister under the last foregoing subsection to acquire land compulsorily shall be exercised by means of an order made in accordance with Part II of the First Schedule to this Act, and Part III of the said Schedule shall apply with respect to the validity and date of operation of any such order :

Provided that, if any objection to any such order is duly made in accordance with the said Part II and is not withdrawn before the order is made, the order shall be provisional only and shall not have effect until it is confirmed by Parliament, and the said Part III shall not apply to the order. [1096]

(4) An order made under the last foregoing subsection may authorise the compulsory purchase of any land belonging to the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, notwithstanding that such land is held inalienably by that Trust under section twenty-one of the said Act or section eight of the National Trust Act, 1939. [1097]

(5) All land vested in the Commissioners at the date of the passing of this Act is hereby vested in the appropriate Minister by virtue of this section and shall be held by him subject to the same terms and conditions as it was held by the Commissioners, and any reference to the Commissioners in any conveyance, lease or other instrument affecting such land shall be construed as references to the appropriate Minister :

Provided that all such land shall, until the appropriate Minister other-

wise directs, be deemed for the purposes of the following provisions of this section and of section six of this Act to have been placed at the disposal of the Commissioners. [1098]

(6) The Commissioners may manage, plant and otherwise use for the purpose of the exercise of their functions under the Forestry Acts, 1919 to 1945, any land vested in or acquired by the appropriate Minister by or under this section and for the time being placed at their disposal by him, and any timber (within the meaning of section three of the Forestry Act, 1919) produced on any such land shall belong to the Commissioners. [1099]

(7) The appropriate Minister may—

- (a) manage and use for such purposes as he thinks fit any land vested in or acquired by him by or under this section which is not for the time being placed at the disposal of the Commissioners for the purpose of the exercise of their functions aforesaid;
- (b) let any land vested in or acquired by him as aforesaid or grant any interest or right in or over such land;
- (c) sell any land vested in or acquired by him as aforesaid which in his opinion is not needed or ought not to be used for the purpose of afforestation or any purpose connected with forestry, or exchange any such land for other land more suitable for any such purpose, and pay and receive money for equality of exchange.

[1100]

(8) Any power to manage and use land conferred by this section shall, without prejudice to the generality of that power, include power to erect buildings or execute works on the land. [1101]

(9) Subsection (4) of section seven of the Forestry Act, 1919 (which empowers the Commissioners to require the grant of haulage facilities subject to a right of appeal to the Development Commissioners) shall have effect as if for the references to the Development Commissioners there were substituted references to the appropriate Minister. [1102]

(10) In consequence of the foregoing provisions of this section the enactments hereinafter mentioned shall have effect subject to the following amendments:—

- (a) the references to the Forestry Commissioners in section one of the Forestry (Transfer of Woods) Act, 1923 (which provides for the transfer of property to the Forestry Commissioners) shall be construed as references to the appropriate Minister, except that the first reference in paragraph (d) of subsection (1) of that section shall be construed as including a reference both to the Forestry Commissioners and to the appropriate Minister, and the reference in the said paragraph (d) to property acquired by the Commissioners under the Forestry Act, 1919, shall be construed as a reference to property acquired by the appropriate Minister under this section; and
- (b) the references to the Forestry Commissioners in section forty-eight of the Settled Land Act, 1925 (which contains regulations respecting forestry leases) and in the definition of "forestry lease" in section one hundred and seventeen of the said Act shall be construed as references to the appropriate Minister, and the reference in the said definition to the Forestry Act, 1919, shall be construed as a reference to this section. [1103]

Object of the section.—This section transfers from the Commissioners to the appropriate Ministers (see *infra*) the powers to acquire land suitable for afforestation or for purposes connected with forestry. The provisions of the Forestry Act, 1919, relating to the acquisition of land are repealed (see Schedule II to the present Act, *post*), and new powers of acquisition, either by agreement or compulsorily, are conferred on the Ministers. Land held by the Forestry Commission at the time of the passing of the Act (June 15, 1945) is transferred to the

Ministers. Land belonging to the National Trust may also be purchased compulsorily by the Ministers.

The Commissioners will have certain land placed at their disposal by the appropriate Minister; and all land which was vested in the Commissioners up to the time of the passing of the Act is deemed to have been placed at their disposal unless the Minister otherwise directs. Such land will be managed by the Commissioners. Land not so placed at the disposal of the Commissioners is to be managed by the Ministers, who are also empowered to build and execute works on any such land, and also to sell land not required for afforestation.

"Appropriate Minister."—This means, as respects England and Wales, the Minister of Agriculture and Fisheries, and as respects Scotland the Secretary of State concerned with agriculture in Scotland. See s. 10 (2), *post*.

National Trust Act, 1907.—7 Edw. 7, c. cxxxvi.

National Trust Act, 1939.—2 & 3 Geo. 6, c. lxxxvi.

Forestry Acts, 1919 to 1945.—See note to s. 1, *ante*.

Timber.—The expression "timber" in s. 6 of the Forestry Act, 1919, includes all forest products; see sub-s. (8) thereof.

Development Commissioners.—The Development Commissioners were constituted under s. 3 of the Development and Road Improvement Funds Act, 1909, an Act which was passed to promote the economic development of the United Kingdom and the improvement of roads therein. For the powers and duties of the Commissioners see s. 4 of that Act.

5. Restrictions on compulsory acquisition of certain land.—(1) Nothing in the last foregoing section shall authorise the compulsory acquisition of—

- (a) any land which is the site of an ancient monument or other object of archaeological interest;
- (b) any land which forms part of any park, garden or pleasure ground, or which forms part of the home farm attached to and usually occupied with a mansion house or is otherwise required for the amenity or convenience of any dwelling house;
- (c) any land which is the property of a local authority, or which has been acquired by statutory undertakers for the purposes of their undertaking. [1104]

(2) In this section the expression—

"local authority" means the council of a county, county borough, county district or rural parish, the Common Council of the City of London or the council of a metropolitan borough;

"statutory undertakers" means any persons authorised by an enactment or by any order or scheme made under any enactment to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water, or other public undertaking. [1105]

6. Financial provisions.—(1) Any capital payments made by the appropriate Minister in acquiring land under this Act shall be defrayed out of the Forestry Fund, and any capital sums received by the appropriate Minister from the sale, lease or exchange of any land vested in or acquired by him by or under this Act shall be paid into the said Fund. [1106]

(2) Where any land vested in or acquired by the appropriate Minister by or under this Act is not for the time being placed at the disposal of the Commissioners, the expenses of the Minister in managing and using the land, including any rent or other outgoings payable by him in respect of the land, shall be defrayed out of moneys provided by Parliament, and any sums received by him from the letting or use of the land, or the grant of any interest or right in or over the land shall be paid into the Exchequer, and the Minister shall pay into the Forestry Fund out of moneys provided by Parliament such periodical sums (if any) in respect of the land as may be determined by the Treasury. [1107]

(3) Where any such land is for the time being placed at the disposal of the Commissioners, any rent or other outgoings payable in respect of the land by the appropriate Minister shall be defrayed out of the Forestry Fund and any sums received by the appropriate Minister from the letting of the land or the grant of any interest or right in or over the land shall be paid into the said Fund. [1108]

(4) There shall be paid into the Forestry Fund out of moneys provided by Parliament in respect of the financial year beginning with the first day of April, nineteen hundred and forty-five, and subsequent financial years, such annual amounts as Parliament may determine. [1109]

(5) Any administrative expenses incurred by either of the Ministers in consequence of the passing of this Act (other than expenses referred to in the foregoing provisions of this section) shall be defrayed out of moneys provided by Parliament. [1110]

Forestry Fund.—This fund was established by s. 8 of the Forestry Act, 1919, and is maintained under the present Act. The Minister of Agriculture (Mr. E. S. Hudson), in moving the Second Reading of the Bill in the House of Commons, said: "It is the intention of the Government to sustain the Forestry Commissioners by suitably enlarging the Forestry Fund, so that they may carry out larger schemes of afforestation with the confidence that when the time comes the necessary financial means will be available" (410 H. of C. Official Report 1744).

7. Annual accounts and report of Commissioners.—(1) The Commissioners shall prepare accounts in respect of the financial year beginning with the first day of April, nineteen hundred and forty-five, and each subsequent financial year, showing the sums paid into and the sums issued out of the Forestry Fund in that year, and the accounts shall be in such form and manner as the Ministers, with the approval of the Treasury, may direct, and the Commissioners shall transmit the accounts to the Ministers at such time as the Ministers, with the approval of the Treasury, may direct. [1111]

(2) The Ministers shall, on or before the thirtieth day of November in the year nineteen hundred and forty-six and in each subsequent year, transmit to the Comptroller and Auditor-General the accounts prepared by the Commissioners under the last foregoing subsection for the financial year last ended, and the Comptroller and Auditor-General shall examine and certify them and lay copies thereof, together with his report thereon, before both Houses of Parliament. [1112]

(3) The Commissioners shall, on such day and in such form as the Ministers may direct, make to the Ministers an annual report as to their proceedings under the Forestry Acts, 1919 to 1945, and the Ministers shall lay every such report before Parliament. [1113]

Forestry Fund.—See note to s. 6, *ante*.

Forestry Acts, 1919 to 1945.—See note to s. 1, *ante*.

8. Pensions of Commissioners and their officers.—(1) The Ministers may, with the approval of the Treasury, make schemes providing for the grant of superannuation and other allowances and gratuities to or for the benefit of the Commissioners and such officers employed by them as may be from time to time determined by the Ministers with the approval of the Treasury, and there shall be paid out of the Forestry Fund to such Commissioners or officers on retirement, or to their legal representatives on death, such superannuation and other allowances and gratuities under the schemes as the Ministers may, with the approval of the Treasury, sanction in each case; and the Treasury may determine the Forestry Fund to be a public Fund for the purposes of the Superannuation Act, 1892. [1114]

(2) Any scheme made by the Forestry Commission under subsection (2) of section ten of the Forestry Act, 1919, or under that subsection as extended by section six of the Forestry (Transfer of Woods) Act, 1923, being a scheme in force immediately before the passing of this Act, shall continue in force and have effect, with any necessary modifications, as if it had been made under this section; and the references in subsection (2) of the said section six to any such scheme shall be construed as references to a scheme made, or having effect as if made, under this section. [1115]

(3) For the reference in the first column of the Schedule to the Superannuation (Various Services) Act, 1938, to subsection (2) of section ten of the Forestry Act, 1919, as amended by subsection (1) of section six of the Forestry (Transfer of Woods) Act, 1923, there shall be substituted a reference to this

section, and for both references in the second column of that Schedule to the Forestry Commissioners there shall be substituted references to the Ministers. [1116]

Forestry Fund.—See note to s. 6, *ante*.

Forestry Act, 1919, s. 10 (2).—The subsection (repealed by the present Act; see Schedule II, *post*) empowered the Forestry Commission, with the approval of the Treasury, to make superannuation schemes for the benefit of officers employed by them. The subsection was extended by s. 6 (1) (also repealed by the present Act; see Schedule II, *post*) of the Forestry (Transfer of Woods) Act, 1923, to the making of such schemes for the benefit of Commissioners themselves as well as their officers.

9. Application to Scotland.—In the application of this Act to Scotland—

(a) the reference in subsection (2) of section four to purchase shall include a reference to taking in feu;

(b) section five shall have effect as if for the definition of “local authority” there were substituted the following definition—

“‘local authority’ means a county, town or district council”;

(c) the First Schedule shall have effect as if—

(i) for references to the sections of the Lands Clauses Consolidation Act, 1845, mentioned in paragraph 1 of Part I of the said Schedule there were substituted references to sections one hundred and twenty to one hundred and twenty-five, sections one hundred and twenty-seven, and sections one hundred and forty-two and one hundred and forty-three of the Lands Clauses Consolidation (Scotland) Act, 1845;

(ii) for the reference to section one hundred and twenty-three of the Lands Clauses Consolidation Act, 1845, there were substituted a reference to section one hundred and sixteen of the Lands Clauses Consolidation (Scotland) Act, 1845;

(iii) for references to section seventy-seven and sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, there were substituted references to section seventy and sections seventy-one to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845;

(iv) for references to the High Court or the Court of Appeal there were substituted references to the Court of Session;

(v) paragraph 4 of Part I of the said Schedule were omitted.

[1117]

10. Short title, construction, interpretation, extent and repeals.—(1) This Act may be cited as the Forestry Act, 1945, and shall be construed as one with the Forestry Acts, 1919 to 1927, and this Act and those Acts may be cited together as the Forestry Acts, 1919 to 1945. [1118]

(2) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Ministers” means the Minister of Agriculture and Fisheries and the Secretary of State concerned with agriculture in Scotland, and, except where the context otherwise requires, means those Ministers acting jointly;

Provided that the said Ministers may make arrangements for the exercise of any of their functions under this Act, as respects transactions affecting England and Wales only or affecting Scotland only, by the appropriate Minister and the said expression shall, as respects those transactions, be construed as referring to the appropriate Minister;

“the appropriate Minister” means, as respects England and Wales, the Minister of Agriculture and Fisheries and, as respects Scotland, the Secretary of State as aforesaid. [1119]

(3) This Act shall not extend to Northern Ireland. [1120]

(4) The enactments mentioned in the second column of the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that the repeal of subsection (4) of section eight of the Forestry Act, 1919, shall not affect the operation of the said subsection as respects the financial year ending on the thirty-first day of March, nineteen hundred and forty-five. [1121]

Forestry Acts, 1919 to 1927.—These are the Forestry Act, 1919 ; the Forestry (Transfer of Woods) Act, 1923 ; and the Forestry Act, 1927.

SCHEDULES

Section 4

FIRST SCHEDULE

PART I

Incorporation of the Lands Clauses Act[s] and Railway[s]* Clauses Consolidation Act, 1845*

1. The Lands Clauses Acts, except sections one hundred and twenty-seven to one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845 (which relate to the sale of superfluous land and deficiencies of land tax and rates) and sections one hundred and fifty and one hundred and fifty-one of the said Act (which relate to access to the special Act), are hereby incorporated with section four of this Act, subject to the modifications and adaptations hereafter specified in this Schedule.

2. In construing the Lands Clauses Acts as incorporated with section four of this Act, the said section four or, in relation to a compulsory purchase, the said section four and the order by which the purchase is authorised, shall be deemed to be the special Act, and references to the promoters of the undertaking shall be construed as references to the appropriate Minister.

3. For the purposes of section one hundred and twenty-three of the Lands Clauses Consolidation Act, 1845 (which provides that powers of compulsory purchase shall not be exercised after the expiration of the prescribed period) the prescribed period shall, in relation to any compulsory purchase, be three years from the coming into operation of the order authorising it.

4. Where land compulsorily purchased is glebe land or other land belonging to an ecclesiastical benefice, sums agreed upon or awarded by way of compensation shall not be paid as directed by the Lands Clauses Acts but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

5. In the case of compulsory purchase, the order authorising the purchase may provide that section seventy-seven of the Railways Clauses Consolidation Act, 1845, and sections seventy-eight to eighty-five of that Act as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, shall be incorporated with section four of this Act, subject to such adaptations and modifications as may be specified in the order. [1122]

PART II

Procedure for making Compulsory Purchase Orders

1. An order for the compulsory purchase of land under section four of this Act shall describe by reference to a map the land to which it applies, and before making any such order, the appropriate Minister shall—

- (a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that such an order is proposed to be made, describing the land, and naming a place where

* Omitted from King's Printer's copy.

a copy of a draft of the order and of the map referred to therein may be seen at all reasonable hours and specifying the time (not less than twenty-eight days from the date of the publication of the notice) within which and the manner in which objections to the order may be made ;

- (b) serve a copy of the notice in such manner as the appropriate Minister thinks fit on every owner, lessee and occupier (except tenants for a month or less period than a month) of any land to which the order relates.

2. If no objection is duly made by any of the persons on whom notices are required to be served or by any other person appearing to the appropriate Minister to be affected or if all objections so made are withdrawn, the appropriate Minister may, if he thinks fit, make the order, either with or without modifications, but in any other case he shall before making the order cause a local inquiry to be held and shall consider any objections not withdrawn and the report of the person who held the inquiry, and may then if he thinks fit make the order with or without modifications :

Provided that an order made by the Minister with modifications shall not, unless all persons interested consent, authorise him to purchase compulsorily any land which the order would not have authorised him so to purchase if it had been made without modifications. [1123]

PART III

Validity and Operation of Compulsory Purchase Order

1. So soon as may be after an order has been made by the appropriate Minister for the compulsory purchase of land under section four of this Act, he shall publish in a newspaper circulating in the locality in which the land to which the order relates is situated a notice stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours, and shall serve a like notice on every person who made an objection to the order.

2. If any person aggrieved by such an order as aforesaid desires to question the validity thereof on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may within six weeks after the publication of the notice of the order, make an application for the purpose to the High Court, and where any such application is duly made, the Court—

- (i) may by interim order suspend the operation of the order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings ; and
- (ii) if satisfied upon the hearing of the application that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, either generally or in so far as it affects any property of the applicant.

3. Subject to the provisions of the last preceding paragraph, the order shall not be questioned by prohibition or certiorari or in any legal proceedings whatsoever either before or after the order is made, and shall become operative at the expiration of six weeks from the date on which notice of the order is published in accordance with the provisions of this Part of this Schedule.

4. Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this Part of this Schedule. [1124]

Lands Clauses Acts.—These are, as respects England and Wales, the Lands Clauses Consolidation Act, 1845 ; the Lands Clauses Consolidation Acts Amendment Act, 1860 ; the Lands Clauses Consolidation Act, 1869 ; the Lands Clauses (Umpire) Act, 1883 ; the Lands Clauses (Taxation of Costs) Act, 1895 ; and any amending Acts for the time being in force. As regards Scotland, they are the Lands Clauses Consolidation (Scotland) Act, 1845 ; the Lands Clauses Consolidation Acts Amendment Act, 1860 ; and any Acts for the time being in force amending the same. See the Interpretation Act, 1889, s. 23.

Ecclesiastical Leasing Acts.—These are the Ecclesiastical Leasing Act, 1842 ; and the Ecclesiastical Leasing Act, 1858. See s. 13 of the latter Act.

Section 10

SECOND SCHEDULE

REPEAL OF ENACTMENTS

Session and Chapter	Short Title	Extent of Repeal
9 & 10 Geo. 5, c. 58.	The Forestry Act, 1919	Section one. Subsection (2) of section two. In subsection (2) of section three the word "only" and the words from "but, so far as they relate" to the end of the subsection; and in subsection (3) the words "Subject to any directions which may be given by the Treasury", paragraphs (a) and (b) and the words from "Provided that" to the end of the subsection. Section five. Section six. Subsections (1) to (3) of section seven. In subsection (2) of section eight paragraph (a) and in paragraph (b) the words "any land or"; and subsection (4) of that section. Subsection (2) of section ten. Schedule.
13 & 14 Geo. 5, c. 21.	The Forestry (Transfer of Woods) Act, 1923.	In subsection (2) of section five the words "not being a Forestry Commissioner". Subsection (1) of section six.
17 & 18 Geo. 5, c. 6.	The Forestry Act, 1927.	Section one.

[1125]

POLICE

STATUTES :—	PAGE
Police (His Majesty's Inspectors of Constabulary) Act, 1945 - -	364
Police (Overseas Service) Act, 1945	365

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE
Defence (General) Regulations, 1939, Regulation 40AC amended -	368
Special Constables Order, 1945 -	369
Police Regulations of March 27, 1945 - - - -	370
Police (Women) Regulations of March 27, 1945 - - -	371
Police War Reserve Rules, 1945 -	373
Women's Auxiliary Police Corps Rules, 1945 - - - -	384

	PAGE
Police (Employment and Offences) Order, 1945 - - - -	398
Police Amalgamation (Wilts) Order, 1945 - - - -	398
Police (Employment and Offences) (No. 2) Order, 1945 - - -	399
Special Constables Order (No. 2), 1945 - - - -	399
Police Regulations of December 21, 1945 - - - -	400
Police (Women) Regulations of December 21, 1945 - - -	403
Police War Reserve (No. 2) Rules, 1945 - - - -	406
Women's Auxiliary Police Corps (No. 2) Rules, 1945 - - -	407

STATUTES

THE POLICE (HIS MAJESTY'S INSPECTORS OF CONSTABULARY) ACT, 1945

(8 & 9 Geo. 6, c. 11)

PRELIMINARY NOTE

The County and Borough Police Act, 1856, limited the numbers of inspectors of constabulary in England and Wales to three, and the Police (Scotland) Act, 1857, limited the appointment to one inspector in Scotland.

Since the passing of those Acts the work of the Police Force has considerably increased, and the present Act, which received the Royal Assent on March 7, 1945, abolishes the former limitations. The number of inspectors of constabulary that may now be appointed under s. 15 of the Act of 1856, and under s. 65 of the Act of 1857, for England and Scotland respectively, is such as a Secretary of State may, with the consent of the Treasury, from time to time determine. Of such number, one may be appointed as Chief Inspector of Constabulary for England and Wales, and one as Chief Inspector of Constabulary for Scotland.

Individual inspectors will no longer have to make separate reports for presentation to Parliament, as was the case under the two sections referred to above. A single report will in future be made by each Chief Inspector on the work of the inspectorate as a whole, and upon such matters as the Secretary of State concerned may direct. [1126]

An Act to remove the restriction upon the number of His Majesty's Inspectors of Constabulary that may be appointed under section fifteen of the County and Borough Police Act, 1856, or section sixty-five of the Police (Scotland) Act, 1857; to provide for the appointment of Chief Inspectors for England and Wales and for Scotland respectively; and to amend the law as to the reports upon matters affecting the police which are to be laid annually before Parliament.

[7th March, 1945.]

1. Amendment of 19 & 20 Vict. c. 69, s. 15.—(1) The number of inspectors of constabulary that may be appointed by His Majesty under section fifteen of the County and Borough Police Act, 1856, shall be such as a Secretary of State may, with the consent of the Treasury, from time to time determine; and of that number one may be appointed as His Majesty's Chief Inspector of Constabulary for England and Wales. [1127]

(2) So much of the said section fifteen as requires a report upon the matters therein mentioned to be made by each of the inspectors appointed thereunder shall cease to have effect, and such report upon those matters as a Secretary of State may direct shall be made to him annually, and copies thereof shall be laid before Parliament. [1128]

2. Amendment of 20 & 21 Vict. c. 72, s. 65.—(1) The number of inspectors of constabulary that may be appointed by His Majesty under section sixty-five of the Police (Scotland) Act, 1857, shall be such as a Secretary of State may, with the consent of the Treasury, from time to time determine; and of that number one may be appointed as His Majesty's Chief Inspector of Constabulary for Scotland. [1129]

(2) So much of the said section sixty-five as requires a report upon the matters therein mentioned to be made by the inspector appointed thereunder shall cease to have effect, and such report upon those matters as a Secretary of State may direct shall be made to him annually, and copies thereof shall be laid before Parliament. [1130]

3. Expenditure.—Any additional expenditure incurred by reason of the

provisions of this Act shall be defrayed out of moneys provided by Parliament. [1131]

4. **Short title.**—This Act may be cited as the Police (His Majesty's Inspectors of Constabulary) Act, 1945. [1132]

THE POLICE (OVERSEAS SERVICE) ACT, 1945

(9 & 10 Geo. 6, c. 17)

PRELIMINARY NOTE

British police forces are required in the overseas areas of occupation, principally in Germany, for the purpose of taking over from the Army of Occupation the task of maintaining law and order, and, in addition, for the purpose of organising, supervising and training German police forces so far as possible in British methods in order to fit them ultimately for taking over responsibility for maintaining law and order in the British zone of occupation. The forces will be composed entirely of volunteers and the estimated number required is about 900, of whom 815 are required in Germany. The object of this Act is to provide for the maintenance of these forces abroad and for protecting the pension rights, continuity of employment, disciplinary and other rights of the members of such forces.

The Act covers not only foreign countries in British occupation, but also any country outside the United Kingdom whose government may invite the assistance of British police forces. A case in point in this latter connection is the Police Mission to Greece. The immediate purpose of the Act is to provide for police forces in Germany and Austria and for the Mission to Greece.

S. 1 applies to all persons accepted into this special police service and contains provisions as to their maintenance while abroad (sub-s. (1)), as to government and discipline (sub-s. (2)), and as to payment of pensions, allowances and gratuities (sub-ss. (2), (3)). The Secretary of State may make regulations with respect to government and discipline, and may, with Treasury approval, make regulations providing for payment of pensions, allowances and gratuities. As regards pensions, the provisions of the Police Pensions Act, 1921, are, subject to necessary adaptations and modifications, to apply.

S. 2 contains special provisions dealing with members of home police forces who engage for a period of overseas service. They will be entitled to subsequent reinstatement in the home forces and the period of service abroad will be taken into account for pension purposes under the Police Pensions Act, 1921 (sub-s. (1)). Any member of a home force who is dismissed by a disciplinary authority from his overseas service or obliged to resign as an alternative to dismissal, will be deemed, for the purposes of the Police Regulations, to have committed, as a member of his home police force, an offence against discipline and may be dealt with under those Regulations accordingly (sub-s. (2)). Under the Police and Firemen (War Service) Act, 1939, a police officer of a home police force who joins the Armed Forces has his pension rights preserved only if he rejoins his home police force on release from the Armed Forces. These rights are by this Act preserved in the case of a police officer, who, on release from the Armed Forces, joins an overseas police force without first rejoining his home force (sub-s. (3)).

An Act to provide for the maintenance of British civil police forces in certain countries and territories outside the United Kingdom; for the discipline and pensions of members of such forces; and for purposes connected therewith.

[20th December, 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. **Maintenance of British civil police forces overseas.**—(1) There shall be paid out of moneys provided by Parliament any expenses incurred by a

Secretary of State, to such amount as may be sanctioned by the Treasury, in respect of persons engaged under his control in the performance of police duties in any foreign country for the time being in the occupation of His Majesty; or in the performance of police duties on behalf of the government of any country or territory outside the United Kingdom. [1133]

(2) The Secretary of State may make regulations with respect to the government and discipline of any persons engaged as aforesaid; and may, with the approval of the Treasury, make regulations providing for the payment out of moneys provided by Parliament of pensions, allowances and gratuities to or in respect of such persons. [1134]

(3) Without prejudice to the generality of the last foregoing subsection, regulations made thereunder for the payment of pensions, allowances and gratuities may direct that, subject to such adaptations and modifications as may be prescribed by the regulations, the provisions of the Police Pensions Act, 1921, shall apply—

(a) in relation to persons engaged as aforesaid under the control of the Secretary of State; and

(b) in relation to persons who, after being so engaged, serve in a home police force or in any such other capacity as is mentioned in section ten of the said Act (which relates to persons who serve successively in home police forces and in certain other capacities, including that of a civil servant),

as if, while so engaged, they were serving in a home police force and as if the Secretary of State were the police authority for that force. [1135]

(4) Any sums received by a Secretary of State under the Police Pensions Act, 1921, as applied by regulations made under this section, either by way of rateable deductions from the pay of persons engaged as aforesaid under his control, or by way of contributions from any other police authority towards the cost of any pension, allowance or gratuity payable under the regulations, shall be paid into the Exchequer. [1136]

(5) Any regulations made under this section shall be laid before Parliament as soon as may be after they are made, and if either House within the period of forty days after the regulations have been so laid resolves that the regulations be annulled, they shall thenceforth be void, but without prejudice to the making of new regulations.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [1137]

(6) Section one of the Rules Publication Act, 1893, shall not apply to any regulations made under this section. [1138]

Effect of section.—See Preliminary Note, *ante*.

Home police force.—For definition, see s. 3, *post*.

Sub-s. (1).—The provision for maintenance is subject to the recovery of all or any part of the cost from a foreign government who may benefit from British police forces, e.g., Greece.

Sub-s. (2).—The power of the Secretary of State to make regulations is necessary because of the many implications of the problem which could not be dealt with in the Act. Regulations must, under sub-s. (5), *supra*, be laid before Parliament and are subject to negative resolution of either House.

Sub-s. (4).—The Police Pensions Act, 1921, s. 10, provides for the making of deductions, known as rateable deductions, of 5 per cent. per annum from the pay of a police officer for pension purposes.

2. Special provisions as to members of home police forces.—(1) Subject to the provisions of this section, any member of a home police force who, whether before or after the commencement of this Act, has engaged, with the consent of the appropriate authority and of the Secretary of State, for a period of overseas service shall during that period be treated as if he were not a member of his home police force; but, except where a pension, allowance or gratuity becomes payable to him out of moneys provided by Parliament by virtue of

regulations made under this Act, he shall be entitled at the end of his period of overseas service to revert to his home police force in the rank in which he was serving immediately before he engaged as aforesaid, and subject to the provisions of any regulations made under section one of this Act, he shall be treated for the purposes of the Police Pensions Act, 1921, and of any scale prescribed by or under the Police Regulations fixing his rate of pay by reference to his length of service, as if he had been serving in that force during that period. [1139]

(2) Notwithstanding anything in the last foregoing subsection, if any member of a home police force who has engaged as aforesaid is dismissed from his overseas service by the disciplinary authority established by regulations made under section one of this Act, or is required by that authority to resign as an alternative to dismissal, he shall be deemed for the purposes of the Police Regulations to have committed, as a member of his home police force, an offence against discipline, and may be dealt with under those Regulations accordingly; and for the purposes of this subsection a certificate of a disciplinary authority established under regulations made under section one of this Act, certifying that any person has been so dismissed or required to resign as aforesaid, shall be evidence of the fact so certified. [1140]

(3) Where, whether before or after the commencement of this Act, a person to whom section one of the Police and Firemen (War Service) Act, 1939, applies, being a person who ceased to serve as a constable in order to serve in His Majesty's forces, upon ceasing to serve in those forces has engaged, with the consent of the appropriate authority for his home police force, for a period of overseas service, he shall be deemed for the purposes of the said Act to have resumed service as a constable, and the foregoing provisions of this section shall apply to him as if he had engaged for a period of overseas service from his home police force. [1141]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of "appropriate authority," "home police force," "overseas service" and Police Regulations, see s. 3, *post*.

3. Interpretation, short title and extent.—(1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say :—

"Appropriate authority", in relation to a member of a home police force, means the chief officer of police acting with the consent of the police authority, or, in the case of a member of a police force being the chief officer of police, means the police authority;

"Home police force" means a police force within the meaning of the Police Pensions Act, 1921, and in relation to a person to whom section one of the Police and Firemen (War Service) Act, 1939, applies, means the force in which he was serving immediately before he ceased to serve as a constable;

"Overseas service" means police service performed in any country or territory outside the United Kingdom, being service the expenses of which are payable under subsection (1) of section one of this Act;

"Police Regulations" means the regulations made under the Police Act, 1919. [1142]

(2) References in this Act to any enactment shall be construed as references to that enactment as amended by any subsequent enactment. [1143]

(3) This Act may be cited as the Police (Overseas Service) Act, 1945. [1144]

(4) This Act shall not extend to Northern Ireland. [1145]

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION 40AC
OF THE DEFENCE (GENERAL) REGULATIONS, 1939*S. R. & O., 1945, No. 311**March 21, 1945*

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. In paragraph (2) of Regulation forty AC of the Defence (General) Regulations, 1939 (which enables the Secretary of State to make rules as to the government, pay, allowances, clothing, expenses and conditions of service of constables appointed for service during a period of national emergency only), after the word “ paragraph ”, in the first place where that word occurs, there shall be inserted the words “ and as to the grant of pensions, allowances or gratuities in respect of injuries received by such constables in the execution of their duty ”; and at the end of the paragraph there shall be inserted the following words :—

“ Notwithstanding that the application of the Police Pensions Acts, 1921 and 1926, to such constables as aforesaid is excluded by paragraph (1) of this Regulation, any rules made under this paragraph relating to pensions, allowances or gratuities may make provision corresponding to the provision made by those Acts in relation to injuries received on duty by members of the first class of the police reserve.”

[1146]

2. For paragraph (3) of the said Regulation there shall be substituted the following paragraph :—

“(3) Subsection (2) of section four of the Police Act, 1919 (which requires the submission of draft police regulations to a council representing the Police Federation, chief officers of police, and police authorities), shall have effect as if after the words ‘ Municipal Corporations ’ there were inserted the words ‘ and such representatives of constables appointed for service during a period of national emergency only as the Secretary of State may, after consultation with any association or body of persons which appears to him to be concerned with the interests of such constables, appoint ’.” [1147]

3. After the said paragraph (3) there shall be inserted the following paragraph :—

“(3A) The provisions of this Regulation shall apply to all members of the women’s auxiliary police corps, whether attested as constables or not, and accordingly—

(a) any reference therein to constables shall be construed as including a reference to members of that corps who are not constables ; and

(b) so long as provision is made by rules under paragraph (2) of this Regulation for the grant of pensions, allowances or gratuities in respect of injuries received in the execution of their duty by members of that corps, those members shall be deemed for the purposes of subsection (2) of section three of the Workmen’s Compensation Act, 1925, to be members of the police force with which they are serving.” [1148]

Note as to S. R. & O., 1945, No. 311.—Article 1 of this Order provides for conferring upon temporary constables, in respect of injuries received on duty, pension rights corresponding to those of the first class of the police reserve. At present the police war reserve and the women's auxiliary police corps are included as civil defence organisations in the Personal Injuries (Civilians) Scheme, 1944.

Article 2 restores the obligation to submit police regulations in draft to the police councils, and provides for the representation of auxiliary police on those councils.

Article 3 extends the Secretary of State's power to regulate the conditions of service of temporary constables to all members of the women's auxiliary police corps, only some of whom are attested as constables. In conjunction with Article 1, it provides for conferring upon them the pension rights already mentioned. Sub-paragraph (b) of the new paragraph (3A) excludes claims for workmen's compensation by members of the women's auxiliary police corps, all of whom are not considered to be members of a police force. At present such claims are excluded by s. 3 of the Personal Injuries (Emergency Provisions) Act, 1939, but they will remain so excluded only so long as the women's auxiliary police corps remains within the Personal Injuries Scheme.

Additional Note to the above Order.—By S. R. & O., 1945, No. 335, the police war reserve and the women's auxiliary police corps ceased, as from April 1, 1945, to be civil defence organisations for the purposes of the Personal Injuries (Civilians) Scheme, 1944.

THE SPECIAL CONSTABLES ORDER, 1945

S. R. & O., 1945, No. 323

March 21, 1945

Whereas by the Special Constables Act, 1914, as amended by the Special Constables Act, 1923, power is conferred on His Majesty, by Order in Council, to make Regulations with respect to the appointment and position of special constables appointed under the Special Constables Act, 1831, or under section one hundred and ninety-six of the Municipal Corporations Act, 1882, and by these Regulations to make such provisions as are mentioned in the said Special Constables Act, 1914, as so amended :

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. Subject to the provisions of paragraph 2 of this Order the provisions of the Police Pensions Acts, 1921 and 1926, shall apply to every special constable who, after the 31st day of March, 1945, serves as such in a whole-time capacity and is granted pay in respect of such service under the Special Constables Order, 1940. [1149]

2.—(1) The said Acts shall apply to such a special constable in the same manner as if he were a member of the first class of the police reserve who is called up for active service with the police force with which the special constable is serving.

(2) Section 27 of the Police Pensions Act, 1921, shall only apply in respect of an injury to such a special constable which is received by him after the 31st day of March, 1945, or is attributable wholly or mainly to events occurring after that date and any grant under the said section shall be based on the special constable's service in a whole-time capacity after that date. [1150]

3. Paragraph 11 of the Special Constables Order, 1923, shall not apply in respect of any such injury as is mentioned in sub-paragraph (2) of paragraph 2 of this Order. [1151]

4. A special constable who before the 1st day of April, 1945, has served in a whole-time capacity in respect of which service he has been granted pay under the Special Constables Order, 1940, may be granted a post-war credit of such an amount and on such conditions as may be specified in directions given by the Secretary of State. [1152]

5. This Order may be cited as the Special Constables Order, 1945. [1153]

THE POLICE REGULATIONS OF MARCH 27, 1945

*S. R. & O., 1945, No. 351**March 27, 1945*

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by Section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations * :—

1. In Regulation 24 of the said Regulations the words "*exclusive of war supplement*" in both places in which they occur shall be omitted. [1154]

2. In paragraph (2) of Regulation 47 of the said Regulations for the words "*of the war supplement hereinafter provided*" there shall be substituted the words "*in the case of any person to whom Regulation 62 applies of the war supplement provided for by that Regulation*". [1155]

3. For Regulation 48 of the said Regulations there shall be substituted the following Regulation :—

"48.—(1) *Subject to the provisions of paragraph (2) of this Regulation the scales of pay for sergeants and constables shall be as follows :—*

Scale of pay for sergeants

				s.	d.
On promotion	..	..	..	128	0 weekly
After 1 year from promotion	..	..	..	131	0 "
" 2 years "	"	"	..	134	0 "
" 3 " "	"	"	..	137	0 "
" 4 " "	"	"	..	140	0 "
" 5 " "	"	"	..	143	0 "

Scale of pay for constables

				s.	d.
On appointment	..	..	..	90	0 weekly
After 2 years from appointment	..	..	..	93	0 "
" 3 " "	"	"	..	96	0 "
" 4 " "	"	"	..	99	0 "
" 5 " "	"	"	..	102	0 "
" 6 " "	"	"	..	105	0 "
" 7 " "	"	"	..	108	0 "
" 8 " "	"	"	..	111	0 "
" 9 " "	"	"	..	114	0 "
" 10 " "	"	"	..	117	0 "

(2) *During the first two years after his appointment the pay of a constable who is under 23 years of age shall be 88s. 0d. weekly as long as he remains under that age and, if he attains the said age within the said two years, shall be 90s. 0d. weekly.*" [1156]

4. In paragraph (2) of Regulation 51 of the said Regulations the words "*exclusive of war supplement*" and "*of the scale of*" shall be omitted and for the words "*that scale*" there shall be substituted the words "*the scale of pay appropriate to that rank*". [1157]

5. For Regulation 56 of the said Regulations there shall be substituted the following Regulation :—

“ 56. *Subject to Regulation 60, a constable who either has served for seventeen years or, having been granted a special increment which has not been withdrawn has served for sixteen years or, having been granted two special increments which have not been withdrawn, has served for fifteen years may at any time after he has completed the appropriate qualifying period be granted an additional increment of 3s. a week in his pay if the Chief Officer of Police is satisfied that he has shown zeal and proficiency in the performance of his duties and that he is well conducted.*” [1158]

6. In Regulation 57 of the said Regulations there shall be substituted, for the figure “ 2s. 6d.,” the figure “ 3s.”. [1159]

7.—(1) Paragraph (1) of Regulation 62 of the said Regulations is hereby revoked.

(2) In paragraph (2) of the said Regulation 62 for the words “ *Every other member of a police force* ” there shall be substituted the words “ *Every member of a police force to whom this Regulation applies* ”.

(3) After paragraph (3) of the said Regulation 62 there shall be added the following paragraph :—

“ (4) *This Regulation applies to every member of a police force holding a rank other than that of sergeant or constable until the Secretary of State directs that it shall cease to apply to him.*” [1160]

8. Paragraph (2) of Regulation 92 of the said Regulations is hereby revoked. [1161]

9. These Regulations shall come into force on the first day of April, 1945. [1162]

* * * * *

THE POLICE (WOMEN) REGULATIONS OF MARCH 27, 1945

S. R. & O., 1945, No. 352

March 27, 1945

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by Section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations * :—

1. In Regulation 18 of the said Regulations the words “ *exclusive of war supplement* ” in both places in which they occur shall be omitted. [1163]

2. After Regulation 32 of the said Regulations there shall be inserted the following Regulation :—

“ 32A. *On any occasion or occasions of emergency within the meaning of the Police (Weekly Rest Day) Act, 1910, the Secretary of State may direct that the provisions of Regulations 29, 30, 31 and 32 shall apply only to such extent and under such conditions as he may prescribe.*” [1164]

3. For Regulation 39 of the said Regulations there shall be substituted the following Regulation :—

“ 39.—(1) *The pay of women members of a police force holding the rank of sergeant or constable shall be in accordance with the provisions of these Regulations :*

Provided that the pay of any woman member of a police force holding the rank of constable who on the 30th September, 1931, was either serving in or training as a candidate in a police force to which the Police Regulations or the Police (Scotland) Regulations applied when she was so serving or training shall, if the Secretary of State in any individual case so directs, be increased by an amount specified by the Secretary of State.

(2) *The pay of all other ranks shall be in accordance with the scale of pay of the force, which shall be subject to the approval of the Secretary of State, with the addition, in the case of any person to whom Regulation 53 applies, of the war supplement provided for by that Regulation.*

(3) *No pensionable payment other than those above referred to shall be made."* [1165]

4. For Regulation 40 of the said Regulations there shall be substituted the following Regulation :—

"40. The scales of pay for sergeants and constables shall be as follows :—

Scale of pay for sergeants

	s.	d.
<i>On promotion</i>	113	0 weekly
<i>After 1 year from promotion</i>	115	6 "
" 2 years "	118	0 "
" 3 " "	120	6 "
" 4 " "	123	0 "
" 5 " "	126	0 "

Scale of pay for constables

	s.	d.
<i>On appointment</i>	79	0 weekly
<i>After 1 year from appointment</i>	79	0 "
" 2 years "	81	6 "
" 3 " "	84	0 "
" 4 " "	86	6 "
" 5 " "	89	0 "
" 6 " "	91	6 "
" 7 " "	94	0 "
" 8 " "	96	6 "
" 9 " "	99	0 "
" 10 " "	102	0 "

[1166]

5. In paragraph (2) of Regulation 42 of the said Regulations the words "*exclusive of war supplement*" and "*of the scale of*" shall be omitted, and for the words "*that scale*" there shall be substituted the words "*the scale of pay appropriate to that rank*". [1167]

6. For Regulation 47 of the said Regulations there shall be substituted the following Regulation :—

"47. Subject to Regulation 51, a constable, who is in receipt of pay according to the scale of Regulation 40 and either has served for seventeen years or, having been granted a special increment which has not been withdrawn, has served for sixteen years or, having been granted two special increments which have not been withdrawn, has served for fifteen years, may at any time after she has completed the appropriate qualifying period be granted an additional increment of 3s. a week in her pay if the Chief Officer of Police is satisfied that she has shown zeal and proficiency in the performance of her duties and that she is well conducted." [1168]

7. In Regulation 48 of the said Regulations there shall be substituted, for the figure "2s. 6d.", the figure "3s.". [1169]

8. For Regulation 53 of the said Regulations there shall be substituted the following Regulation :—

"53.—(1) *Every Woman member of a police force to whom this Regulation applies shall be granted a war supplement to her pay at the rate of £48 a year.*

(2) *This Regulation applies to every woman member of a police force who holds a rank other than that of sergeant or constable until the Secretary of State directs that it shall cease to apply to her.*" [1170]

9. These Regulations shall come into force on the first day of April, 1945. [1171]

* * * * *

THE POLICE WAR RESERVE RULES, 1945

S. R. & O., 1945, No. 361

March 29, 1945

These rules are amended, as from January 1, 1946, by the Police War Reserve (No. 2) rules, 1945, *post*.

In pursuance of the power conferred on me by Regulation 40AC of the Defence (General) Regulations, 1939, I hereby make the following Rules :—

1. Police war reservists shall be appointed by and shall serve under the directions of the Chief Officer of Police. [1172]

DISCIPLINE

2. The code of offences against discipline set out in the First Schedule to these Rules shall apply with respect to police war reservists. [1173]

3. Every police war reservist against whom a report or complaint suggesting the commission of an offence against discipline is made shall, as soon as possible, be informed in writing of the exact charge against him. [1174]

4. The written charge must disclose an offence against discipline as defined in the code of offences against discipline with such details of time and place as will leave the accused under no misapprehension as to the offence with which he is charged. [1175]

5. The written charge, which shall be entered on a form provided for the purpose (hereinafter referred to as the "misconduct form"), together with the report or complaint on which the charge is founded, and all reports thereon (whether confidential or otherwise) or copies thereof, shall be handed or sent as soon as practicable to the accused, who shall initial them to show that he has seen them. He shall either be allowed to retain for the purpose of his defence the copies of the reports which are handed to him or shall be given a reasonable opportunity to make copies of the reports for that purpose. [1176]

6. The accused shall be directed to state in writing upon the misconduct form whether he admits or denies the charge and shall be allowed to give any explanation which he may wish to offer in writing. He shall also be allowed to state whether he desires to offer his explanation personally to the Chief Officer of Police, and shall, if he desires it, be given an opportunity of so doing. [1177]

7. The accused shall also be allowed to state the names of any witnesses to material facts whom he desires to be present when the charge is heard. Any such witnesses who are members of the police force shall be ordered to attend; and any witnesses who are not members of the force shall be given due notice that their attendance is desired and of the time and place of the hearing. [1178]

8. If the accused denies the charge, he shall, unless the Chief Officer of Police is satisfied with the explanation he has offered, be ordered to appear before the Chief Officer of Police and shall have an opportunity of hearing the evidence against him and of cross-examining the witnesses and of calling witnesses in his defence. [1179]

9. The decision of the Chief Officer of Police shall be written upon the misconduct form and at once notified to the accused, who shall write on the misconduct form his acknowledgment of his having read the decision. [1180]

10. In the case of the Metropolitan Police the procedure in discipline cases shall be as specially approved by the Secretary of State and published in the General Orders of that force. [1181]

11. The following provisions shall have effect with respect to disciplinary proceedings before the Chief Officer of Police :—

- (1) If the accused so desires, he shall be allowed to have another serving member of the police force of which he is a member, selected by himself, to assist him in presenting his case.
- (2) If the accused absconds or refuses or neglects without good and sufficient cause to attend the proceedings at the time and place appointed, or is serving a sentence of imprisonment or penal servitude, the case may be decided in his absence. [1182]

12.—(1) The Chief Officer of Police may suspend from duty a police war reservist against whom a report or complaint suggesting the commission of an offence against discipline is made ; such suspension from duty may continue until the disciplinary proceedings arising out of the said report or complaint have been concluded.

(2) Subject to the provisions of this Rule, these Rules shall continue to apply to a police war reservist who is suspended from duty.

(3) A police war reservist who is suspended from duty shall not be entitled in respect of the period of suspension to pay or to war duty allowance, plain clothes allowance, detective allowance, extra duty allowance or temporary duty allowance, but shall be paid a suspension allowance at such rate not less than one-half and not exceeding two-thirds of the aggregate of his pay and his war duty allowance as the Chief Officer of Police may determine, provided that in the case of a police war reservist who has been convicted of an offence summarily or on indictment no suspension allowance shall be payable in respect of any period of imprisonment or penal servitude.

(4) A police war reservist who, having been suspended from duty, returns to duty without having been found guilty of any offence shall receive, as from the date of his suspension from duty, his pay and any of the said allowances of which he was in receipt immediately prior to his suspension from duty, less any amount paid to him by way of suspension allowance. [1183]

13. An offence against discipline may be punished by :—

- (1) Dismissal,
- (2) Being required to resign forthwith, or at such date as may be ordered (as an alternative to dismissal),
- (3) Reduction in rank,
- (4) Reduction in rate of pay,
- (5) Forfeiture of merit or good conduct badges (except such as have been granted for an act of courage or bravery),
- (6) Fine,
- (7) Reprimand,
- (8) Caution.

Every punishment, except a caution, shall be entered on the man's conduct sheet. A caution shall not be so entered. [1184]

14. A reduction in pay, without reduction in rank, shall be limited to a definite period, which shall be stated in the order by which the punishment is inflicted and shall not exceed twelve months, and at the end of the stated period the man shall be advanced to the rate of pay to which he would have been entitled but for the punishment awarded him, unless the period of reduction has in the meantime been extended by way of punishment for a further offence against discipline. [1185]

15. The infliction of a fine shall not cause any advance in pay (except any special increment which is subject to good conduct as provided in the Rules relating to pay) to be retarded or withheld. [1186]

16. The amount of a fine imposed by way of punishment for any one offence shall not exceed one week's pay and shall be recovered by stoppage of pay in amounts not exceeding one day's pay in any week, except in the event of a man ceasing to be a police war reservist, when the whole amount of any fine then unpaid may be deducted from any pay then due. [1187]

PROMOTION

17. The conditions for the promotion of a police war reservist shall be the same as those for a member of a police force to whom the Police Regulations apply. [1188]

HOURS OF DUTY

18. Every police war reservist shall carry out all lawful orders and shall at all times punctually and promptly perform all appointed duties and attend to all matters within the scope of his office as a constable. He may be required to do duty at all times, including Sundays and public holidays. [1189]

19. Subject to the provisions of Rule 18, the periods for which a police war reservist shall be required to perform his appointed police duties shall be the same and shall be subject to extension on the same conditions as those of a member of the police force to whom the Police Regulations apply. [1190]

LEAVE OF ABSENCE

20.—(1) Every police war reservist shall, so far as the exigencies of duty permit, be granted leave of absence (hereinafter referred to as "annual leave") in addition to the days upon which he is not required to perform police duties in compliance with the Police (Weekly Rest Day) Act, 1910, so that sergeants shall be granted annual leave of fourteen days and constables shall be granted annual leave of twelve days in each complete calendar year.

(2) If the exigencies of duty permit, the annual leave shall be permitted to be in one period continuous with the weekly rest days of the weeks in which the leave is taken. [1191]

21. A police war reservist may be granted special or sick leave, with or without pay, for such periods and on such conditions as the Secretary of State may from time to time by directions prescribe:

Provided that where a police war reservist, who is not incapacitated for duty by illness, is relieved of duty on account of his having been in contact with infectious disease without his own default, he shall not be liable to any deduction from pay or from annual or other leave in respect of such absence from duty. [1192]

PERSONAL RECORDS

22.—(1) The Chief Officer of Police shall cause a personal record of each police war reservist serving under his directions to be kept and, if the police war reservist is transferred to serve under the directions of the Chief Officer of Police of another force, shall transmit the record to that Chief Officer of Police.

(2) The personal record of each police war reservist shall contain entries of his description, including the number on his national registration identity card and the registration number of his certificate of registration (if any) issued under the National Service Acts, 1939 to 1942, particulars of his birthplace and date of birth, his family, his previous service (if any) in the Civil Service, the Navy, the Army, the Air Force, the National Fire Service, a fire brigade, the Auxiliary Fire Service, or as a member of a police force or special constable, and, as regards his service as a police war reservist, particulars of the date of his appointment, all postings, transfers and removals, all periods of leave with an explanation of the reason for each period, all commendations, rewards and punishments, other than cautions, the date of his ceasing to be a constable with the reason, cause or manner thereof and all particulars which immediately before these Rules came into force were entered in the personal record. [1193]

23.—(1) Every police war reservist shall, on ceasing to be a constable, be given a certificate showing the period of his service and the reason, cause or manner of his so ceasing, together with particulars of his personal description.

(2) The certificate shall show the cause of the police war reservist ceasing to be a constable, according to the circumstances of the case, in one of the following ways :—

Services no longer required ;

Discharged—

(a) on pension,

(b) on account of war service injury,

(c) on account of war injury received off duty,

(d) on account of ill health ;

Released to join the armed forces of the Crown ;

Released for industrial work of national importance ;

Discharged as unsuitable ;

Resigned ;

Required to resign ;

Dismissed ;

and the Chief Officer of Police may append thereto any recommendation which he feels justified in giving, such as :—

His conduct was exemplary ;

His conduct was very good ;

His conduct was good. [1194]

PAY AND ALLOWANCES

24. Subject to the provisions of Rules 25, 26, 27 and 28, the pay and allowances of a police war reservist shall be the same and shall be subject to the same conditions as the pay and allowances of a member of the police force to whom the Police Regulations apply. [1195]

25. A police war reservist who is required to live away from his home shall, subject to any conditions prescribed in directions given by the Secretary of State, be paid a lodging allowance of a weekly amount prescribed in directions so given and not exceeding 24s. 6d. [1196]

26. A police war reservist shall only be entitled to be paid a rent allowance of an amount and subject to conditions prescribed in directions given by the Secretary of State, and the Secretary of State may prescribe different allowances and different conditions for different classes or descriptions of police war reservists. [1197]

27. The pay of a police war reservist during a period of sick leave shall be reduced by the amount of any benefit for which he may have qualified

under the National Health Insurance Acts, 1936 to 1941, by the amount of any payment which may be made to him in respect of the period of leave under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939, and by the amount of any weekly payment which he may receive in respect of that period under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for injury or sickness. [1198]

28.—(1) For the purpose of determining the entitlement to subsistence and lodging allowances of a police war reservist who is living away from his home, the place where he is living shall be treated as his home.

(2) In this Rule "lodging allowance" does not include the lodging allowance payable under Rule 25. [1199]

CLOTHING, EQUIPMENT AND NECESSARIES

29. All articles of uniform, clothing and equipment necessary for the performance of police duty shall be provided by the police authority for every police war reservist free of cost. [1200]

30. A police war reservist shall return, either on demand or on the termination of his service, any equipment, appliance or material issued to him and shall be liable to defray the cost of the replacement or repair, as the case may be, of any such equipment, appliance or material which is, through his own default, either not returned or consumed, destroyed or lost or otherwise becomes defective. [1201]

PENSIONS

31.—(1) Subject to the provisions of paragraphs (2) and (3) of this Rule, the provisions of the Police Pensions Acts, 1921 and 1926, shall apply to every police war reservist who after the 31st day of March, 1945, serves as such.

(2) The said Acts shall apply to such a police war reservist in the same manner as if he were a member of the first class of the police reserve who is called up for active service with a police force.

(3) Section 27 of the Police Pensions Act, 1921, shall only apply in respect of an injury to such a police war reservist which is received by him after the 31st day of March, 1945, or is attributable wholly or mainly to events occurring after that date and any grant under the said section shall be based on his service as a police war reservist after that date. [1202]

APPEALS

32.—(1) A police war reservist who, after the date when these Rules come into force, is punished by dismissal, by being required to resign as an alternative to dismissal, by reduction in rank or by reduction in rate of pay, may appeal to the Secretary of State.

(2) The Secretary of State, unless it appears to him that the case is of such a nature that it can properly be determined without taking oral evidence, shall appoint one or more persons to hold an inquiry and report to him, and any person or persons so appointed shall have power to take evidence on oath and for that purpose to administer oaths.

(3) The Secretary of State may, by order, either allow an appeal, dismiss an appeal or vary the punishment by substituting some other punishment (whether more or less severe) which the Chief Officer of Police might have awarded.

(4) An order under paragraph (3) of this Rule, allowing an appeal or varying the punishment, shall take effect by way of substitution for the decision appealed from and as from the date of the decision appealed from or such later date as may be specified in the order :

Provided that unless the Secretary of State by his order otherwise directs, the police war reservist who has been reinstated in the force or in his rank by that order shall not be entitled to pay or allowances in respect of the period between the date of the decision appealed from and the date when the order takes effect.

(5) The Secretary of State by an order varying the punishment may, if the police war reservist was suspended for a period immediately preceding the date of the decision appealed from, deal with the suspension.

(6) The Secretary of State may, by his order, direct that the police war reservist shall pay the whole or any part of his own costs but, subject to any such direction being given, all costs and expenses of an appeal, including the costs of the parties, shall be defrayed out of the police fund.

(7) Any costs payable under paragraph (6) of this Rule shall be subject to taxation in such manner as the Secretary of State may direct.

(8) An order under paragraph (3) of this Rule shall forthwith be sent to the police war reservist and to the Chief Officer of Police together with, if an inquiry was held, a copy of the report of the person or persons who held the inquiry.

(9) The provisions of the Second Schedule to these Rules shall have effect with regard to proceedings on appeal. [1203]

GENERAL

33. Subject to any directions given by the Secretary of State, the Chief Officer of Police may terminate the appointment of any police war reservist by giving him not less than one week's notice. [1204]

34.—(1) In these Rules the expression "Police Regulations" means the Regulations made by the Secretary of State under section 4 of the Police Act, 1919, and for the time being in force, and the expression "police war reservist" means a member of the police war reserve.

(2) The service of a police war reservist to be reckoned for the purpose of promotion, leave, pay and allowances shall be his whole-time paid service after the 3rd day of September, 1939, as a police war reservist, a special constable and, if he is not in receipt of a pension under the Police Pensions Acts, 1921 and 1926, as a member of the first class of the police reserve, including all leave with full pay and any period of leave without full pay not exceeding seven days in duration but excluding any period of leave without full pay exceeding seven days in duration and any period of absence or suspension without full pay or the equivalent of full pay; and for the purpose of this paragraph leave shall not be taken to be leave without full pay by reason only that there was deducted from his pay the amount of benefits under the National Health Insurance Acts, 1936 to 1941, of payments made under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939, or of any weekly payments under the Workmen's Compensation Acts, 1925 to 1943. [1205]

35.—(1) The Temporary Constables (Emergency) Rules, 1943, the Temporary Constables (Emergency) Rules, 1944, and the Temporary Constables (Emergency) (No. 2) Rules, 1944, are hereby revoked.

(2) Any direction given, appointment made, power exercised or thing done under any Rule revoked by these Rules shall, if it is in force immediately before the coming into force of these Rules and could have been given, made, exercised or done under a provision of these Rules, continue in force and be deemed to be given, made, exercised or done under that provision.

(3) Any offence committed against the code of offences against discipline contained in Appendix I to the Temporary Constables (Emergency) Rules, 1943, shall be deemed to have been committed against the code of offences against discipline which is contained in the First Schedule to these Rules.

(4) Any proceedings initiated, suspension ordered or punishment imposed under the Rules revoked by these Rules shall be deemed to have been initiated, ordered or imposed under the provisions of these Rules.

(5) Any reference in any document to any Rules revoked by these Rules or any provision thereof shall, unless the contrary intention appears, be construed as a reference to these Rules or to the corresponding provision of these Rules. [1206]

36.—(1) These Rules may be cited as the Police War Reserve Rules, 1945.

(2) These Rules shall come into force on the first day of April, 1945.

(3) These Rules shall apply to all police war reservists who are members of any police force in England or Wales to which the Police Act, 1919, applies. [1207]

* * * * *

Rule 2

FIRST SCHEDULE

Code of Offences against Discipline

Any police war reservist commits an offence against discipline if he is guilty of :—

- (1) *Discreditable Conduct*, that is to say, if he acts in a disorderly manner or any manner prejudicial to discipline or likely to bring discredit on the reputation of the force or of the Police Service.
- (2) *Insubordinate or oppressive conduct*, that is to say, if he—
 - (a) is insubordinate by word, act or demeanour, or
 - (b) is guilty of oppressive or tyrannical conduct towards an inferior in rank, or
 - (c) uses obscene, abusive or insulting language to any other member of the force, or
 - (d) wilfully or negligently makes any false complaint or statement against any member of the force, or
 - (e) assaults any other member of the force, or
 - (f) overholds any complaint or report against any member of the force.
- (3) *Disobedience to Orders*, that is to say, if he disobeys or without good and sufficient cause omits or neglects to carry out any lawful order, written or otherwise.
- 4) *Neglect of Duty*, that is to say, if he—
 - (a) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which is his duty as a constable, or
 - (b) idles or gossips while on duty, or
 - (c) fails to work his beat in accordance with orders, or leaves his beat, point or other place of duty to which he has been ordered, without due permission or sufficient cause, or
 - (d) by carelessness or neglect permits a prisoner to escape, or
 - (e) fails, when knowing where any offender is to be found, to report the same, or to make due exertions for making him amenable to justice, or
 - (f) fails to report any matter which it is his duty to report, or
 - (g) fails to report anything which he knows concerning a criminal charge, or fails to disclose any evidence which he, or any person within his knowledge, can give for or against any prisoner or defendant to a criminal charge, or
 - (h) omits to make any necessary entry in any official document or book, or
 - (i) neglects, or without good and sufficient cause omits, to carry out any instructions of a medical officer of the force, or, while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard his return to duty.

- (5) *Falsehood or Prevarication*, that is to say, if he—
- (a) knowingly makes or signs any false statement in any official document or book, or
 - (b) wilfully or negligently makes any false, misleading or inaccurate statement, or
 - (c) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein.
- (6) *Breach of Confidence*, that is to say, if he—
- (a) divulges any matter which it is his duty to keep secret, or
 - (b) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons, or
 - (c) without proper authority communicates to the public press, or to any unauthorised person, any matter connected with the force, or
 - (d) without proper authority shows to any person outside the force any book or written or printed document the property of the Police Authority, or
 - (e) makes any anonymous communication to the Police Authority or the Chief Officer of Police or any superior officer, or
 - (f) canvasses any member of the Police Authority or of any County, City or Borough Council with regard to any matter concerning the force, or
 - (g) signs or circulates any petition or statement with regard to any matter concerning the force, except through the proper channel of correspondence to the Chief Officer of Police or the Police Authority; or in accordance with any method approved by the Secretary of State, or
 - (h) calls or attends any unauthorised meeting to discuss any matter concerning the force.
- (7) *Corrupt Practice*, that is to say, if he—
- (a) receives any bribe, or
 - (b) fails to account for or to make a prompt and true return of any money or property received by him in his official capacity, or
 - (c) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial without the consent of the Chief Officer of Police or the Police Authority, or
 - (d) places himself under pecuniary obligation to any publican, beer-retailer, spirit-grocer, or any person who holds a licence concerning the granting or renewal of which the police may have to report or give evidence, or
 - (e) improperly uses his character and position as a member of the force for his private advantage, or
 - (f) in his capacity as a member of the force, writes, signs or gives, without the sanction of the Chief Officer of Police, any testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind, or
 - (g) without the sanction of the Chief Officer of Police, supports an application for the grant of a licence of any kind.
- (8) *Unlawful or unnecessary exercise of authority*, that is to say, if he—
- (a) without good and sufficient cause makes any unlawful or unnecessary arrest, or
 - (b) uses any unnecessary violence to any prisoner or other person with whom he may be brought into contact in the execution of his duty, or
 - (c) is uncivil to any member of the public.
- (9) *Malingering*, that is to say, if he feigns or exaggerates any sickness or injury with a view to evading duty.
- (10) *Absence without leave or being late for duty*, that is to say, if he without reasonable excuse is absent without leave from, or is late for, any parade, Court, or any other duty.

- (11) *Uncleanliness*, that is to say, if he while on duty or while off duty in uniform in a public place is improperly dressed or is dirty or untidy in his person, clothing or accoutrements.
- (12) *Damage to clothing or other articles supplied*, that is to say, if he—
- wilfully or by carelessness causes any waste, loss or damage to any article of clothing or accoutrement, or to any book, document, or other property of the Police Authority, served out to him or used by him or entrusted to his care, or
 - fails to report any loss or damage as above, however caused.
- (13) *Drunkenness*, that is to say, if he, while on or off duty, is unfit for duty through drink.
- (14) *Drinking on duty or soliciting drink*, that is to say, if he—
- without the consent of his superior officer, drinks, or receives from any other person, any intoxicating liquor while he is on duty, or
 - demand, or endeavours to persuade any other person to give him, or to purchase or obtain for him, any intoxicating liquor while he is on duty.
- (15) *Entering licensed premises, etc., while on duty*, that is to say, if he enters, while on duty, any premises licensed under the Liquor Licensing laws, or any other premises where liquors are stored or distributed, when his presence there is not required in the execution of his duty.
- (16) If he lends money to any superior or borrows from or accepts any present from any inferior in rank.
- (17) Any police war reservist also commits an offence against discipline, and shall be liable to punishment as provided in these Rules, if he is guilty of an offence which is punishable on conviction, whether summarily or on indictment, or if he connives at or is knowingly an accessory to any offence against discipline under this Code. [1208]

Rule 32

SECOND SCHEDULE

PART I

Notice of Appeal, etc.

1. A police war reservist who desires to appeal shall send to the Secretary of State a notice of appeal in the form set out below.

Form of Notice of Appeal

I,.....on the.....day
of....., 19....., being a police war reservist
holding the rank of.....in the.....police force

was punished by being { dismissed
required to resign } from that force
reduced in rank to.....
reduced in rate of pay to.....

on the ground that.....

I received notification of the decision on.....
and acknowledge having read the decision on.....

Give name and number.

Omit what is unnecessary.

Here state the charge or charges under the Code of Offences against Discipline or such other grounds, if any, as were given for the punishment.

Give dates.

Omit the alternative which does not apply.

I desire to appeal against the said finding and punishment
punishment.

I desire
do not desire to submit additional evidence not taken into consideration at the hearing of the charge(s) against me.

I annex—

Omit any part of this paragraph which does not apply.

(1) a concise statement (marked A) of the grounds on which I desire to appeal :

(2) a list (marked B) of the documents, if any (other than documents produced at the hearing of the charge) which I desire to submit :

(3) a list (marked C) of the names and addresses of the witnesses I desire to call, with a concise statement of the material facts which each such witness will prove.

Omit if there was a period of suspension immediately prior to the punishment.

At the date on which I was so punished I was in receipt of pay at the rate of £..... per week.

Omit if there was no period of suspension immediately prior to the punishment.

Before being so punished I was suspended on the..... day of....., 19....., at which date I was in receipt of pay at the rate of £..... per week.

While suspended I received a suspension allowance at the rate of £..... per week.

Omit the alternative which does not apply.

After being suspended I was
was not notified that my period of suspension would be deducted in reckoning my approved service for purposes of pension.

Give address to which sent.
Give date on which sent.

I declare that a full and true copy of this notice of appeal, including the accompanying statement(s), has been sent to..... as or on behalf of the respondent on.....

Signature.....

Address

.....

Date.....19.....

2. Subject to paragraph 5, the notice of appeal shall be sent to the Secretary of State and a copy thereof shall be sent to the respondent within a period of ten days of the notification to the appellant of the decision appealed from.

3. The respondent shall send to the Secretary of State a statement giving particulars of the facts or contentions on which he relies and of the documentary or other evidence which he desires to submit and declaring whether, if an inquiry is held, he wishes to appear in person or by a legal or other representative and shall also send to him, when so required, such number of copies of the said statement and such papers, reports, records and other documents as the Secretary of State may specify.

4.—(1) Subject to paragraph 5, the statement referred to in paragraph 3 shall be sent to the Secretary of State and a copy thereof shall be sent to the appellant within a period of ten days from the receipt by the respondent of a copy of the notice of appeal.

(2) Copies of any papers, reports, records or other documents specified by the Secretary of State under paragraph 3, of which the appellant does not already possess a copy, shall be sent to the appellant as soon as may be after they have been sent to the Secretary of State.

5. If the Secretary of State so directs in any particular case, whether before or after the expiration of the period of ten days mentioned in paragraphs 2 and 4, a longer period shall be substituted for the period of ten days. [1209]

PART II

Proceedings before a Tribunal

6.—(1) The Tribunal shall appoint a day for the holding of the inquiry and shall cause notice thereof to be sent to the appellant, the respondent and the Secretary of State, not less than seven days before the day so appointed.

(2) It shall be within the discretion of the Tribunal to proceed with the inquiry on the appointed day in the absence of either party, whether represented or not, if it appears to be just and proper so to do, and to adjourn the inquiry from time to time as may appear necessary for the due hearing of the case.

(3) The Tribunal may, at any time before the conclusion of the inquiry, allow the notice of appeal or any documents annexed thereto, the respondent's statement or any papers, reports, records or other documents specified by the Secretary of State under paragraph 3 to be amended as it thinks just.

(4) The appellant may, at any time before the day appointed for the holding of the inquiry, withdraw his appeal by giving notice in writing to the Secretary of State.

7. The appellant shall have the right to appear at the inquiry by a serving member of a police force or, with the consent of the Tribunal, by counsel or a solicitor :

Provided that the appellant shall be entitled, in any case in which the respondent appears by the Clerk or other officer of the Police Authority or by a solicitor, to appear by a solicitor and, in any case in which the respondent appears by counsel, to appear by counsel.

8. The respondent shall have the right to appear at the inquiry by a serving member of the police force or by the Clerk or other officer of the Police Authority or, with the consent of the Tribunal, by counsel or a solicitor.

9. Unless the Secretary of State otherwise directs, the inquiry shall be held in private :

Provided that it shall be within the discretion of the Tribunal to permit such person or persons as it may consider desirable to be present during the whole or such part of the inquiry as it may think fit, and may require from any person who is permitted to be present an undertaking that he will not make public any report of, or statement with regard to, the proceedings, except at such time or under such conditions as may be specified.

10.—(1) Unless the Tribunal otherwise determines, the inquiry shall be conducted by way of rehearing the charge and the evidence in support thereof shall be given first.

(2) It shall be within the discretion of the Tribunal to determine any question as to whether any evidence tendered shall be admitted or whether any question shall or shall not be put to a witness.

(3) Unless the Secretary of State otherwise directs, a shorthand note of the evidence given at the inquiry shall be taken.

11. The Tribunal shall draw up and submit to the Secretary of State, as soon as may be after the termination of the inquiry, a report, in triplicate, of its findings, setting out—

- (a) a statement of the facts admitted or found to be proved, so far as material to the case ;
- (b) a statement as to the charge or charges found to be proved ;
- (c) a statement as to whether the punishment was, in its opinion, just and proper having regard to all the circumstances before it and, if not, whether any, and if so what, punishment should, in its opinion, be substituted therefor ;
- (d) where the appeal is against punishment by dismissal, by being required to resign or by reduction in rank, a recommendation whether, if the Secretary of State should order the appellant to be reinstated in the force or in his rank, such reinstatement should take effect with full pay as from the date of the appellant's suspension, dismissal, resignation or reduction, as the case may be ;

- (e) where the police war reservist was suspended for a period immediately preceding the date of the decision appealed from and the Tribunal recommend that the punishment should be varied, a recommendation whether the suspension allowance should be increased ;
- (f) any other matter arising out of the appeal which it desires to bring to the notice of the Secretary of State ;

and shall send therewith to the Secretary of State the shorthand note of the evidence given at the inquiry, if such note has been taken, the notice of appeal and the documents annexed thereto, the statement of the respondent and all other documents produced at the inquiry or otherwise furnished in connection therewith.

12. If the Tribunal consists of more than one member, the powers conferred upon the Tribunal by sub-paragraph (1) of paragraph 6, paragraph 7 and paragraph 8 shall be exercised by the member appointed by the Secretary of State to preside. [1210]

PART III

General

13. Where any notice or other document is required by the provisions of this Schedule to be sent by or to the Secretary of State or any other person or authority, it shall be a sufficient compliance with the provisions of this Schedule if such notice or other document is posted, within such time, if any, as is prescribed by the provisions of this Schedule, in a registered letter directed, in the case of a letter to the Secretary of State, to the Under-Secretary of State, Home Office, London, S.W.1, and in any other case to the person or authority for whom it is intended at his or its usual office or other ordinary address.

14. If any question arises as to the proper compliance with any provision of this Schedule, it shall be determined by the Secretary of State, whose decision shall be final.

15. In this Schedule—

“the respondent” means the Chief Officer of Police ; and

“the Tribunal” means the person or persons appointed by the Secretary of State under paragraph (2) of Rule 32. [1211]

THE WOMEN'S AUXILIARY POLICE CORPS RULES, 1945

S. R. & O., 1945, No. 362

March 30, 1945

These Rules are amended, as from January 1, 1946, by the Women's Auxiliary Police Corps (No. 2) Rules, 1945, *post*.

In pursuance of the power conferred on me by Regulation 40AC of the Defence (General) Regulations, 1939, I hereby make the following Rules :

PART I

Preliminary

1. All members of the Women's Auxiliary Police Corps (hereinafter referred to as “auxiliary policewomen”) shall be appointed by and shall serve under the directions of the Chief Officer of Police. [1212]

2.—(1) An auxiliary policewoman shall carry out all duties connected with the police force which are assigned to her either generally or specifically by or on behalf of the Chief Officer of Police, and she shall at all times punctually and promptly perform all such duties and attend to all matters within the scope of her duties.

(2) An auxiliary policewoman who is a constable shall, in addition to the obligations imposed on her by paragraph (1) of this Rule, at all times attend to all matters within the scope of her office as such. [1213]

3. Auxiliary policewomen shall be divided into three classes :—

Class A, the primary purpose of which is to secure the adequate regular performance of street patrol duties, motor patrol duties and outside detective duties, shall consist of those women who are appointed to be members of that Class by the Chief Officer of Police ;

Class B, which shall consist of all auxiliary policewomen who are not members of Class A and are not employed as auxiliary policewomen part-time only ;

Class C, which shall consist of those auxiliary policewomen who are employed as such part-time only. [1214]

4. The authorised establishment of Class A and Class B and any changes thereof shall be subject to the approval of the Secretary of State. [1215]

PART II

Class A

Appointment, transfer, promotion, pay, discipline and appeals

(a) Appointment and transfer

5. A woman under 22 years of age shall not, without the prior approval of the Secretary of State, be appointed a member of Class A. [1216]

6. A member of Class A may be transferred to Class B by the Chief Officer of Police if—

- (a) the number of members of Class A has to be reduced to remain in conformity with the authorised establishment, or
- (b) she proves unsuitable for the duties assigned to her or becomes unfit for those duties otherwise than as the result of an injury received in such circumstances that if permanent incapacity were to result from the injury she would be entitled to a pension under the provisions of these Rules. [1217]

(b) Promotion

7. The conditions for the promotion of a member of Class A shall be the same as those for a woman member of the police force to whom the Police (Women) Regulations apply. [1218]

(c) Pay

8. The rate of pay of a member of Class A shall be the same and shall be subject to the same conditions as the pay of a woman member of the police force to whom the Police (Women) Regulations apply. [1219]

(d) Discipline

9. The code of offences against discipline set out in the First Schedule to these Rules shall apply with respect to members of Class A. [1220]

10. Every member of Class A against whom a report or complaint suggesting the commission of an offence against discipline is made shall, as soon as possible, be informed in writing of the exact charge against her. [1221]

11. The written charge must disclose an offence against discipline as defined in the code of offences against discipline with such details of time and place as will leave the accused under no misapprehension as to the offence with which she is charged. [1222]

12. The written charge, which shall be entered on a form provided for the purpose (hereinafter referred to as the "misconduct form"), together with

the report or complaint on which the charge is founded, and all reports thereon (whether confidential or otherwise) or copies thereof, shall be handed or sent as soon as practicable to the accused, who shall initial them to show that she has seen them. She shall either be allowed to retain for the purpose of her defence the copies of the reports which are handed to her or shall be given a reasonable opportunity to make copies of the reports for that purpose. [1223]

13. The accused shall be directed to state in writing upon the misconduct form whether she admits or denies the charge and shall be allowed to give any explanation which she may wish to offer in writing. She shall also be allowed to state whether she desires to offer her explanation personally to the Chief Officer of Police, and shall, if she desires it, be given an opportunity of so doing. [1224]

14. The accused shall also be allowed to state the names of any witnesses to material facts whom she desires to be present when the charge is heard. Any such witnesses who are members of the police force, or auxiliary police-women not being members of the force, shall be ordered to attend; and any witnesses who are neither members of the force nor auxiliary policewomen shall be given due notice that their attendance is desired and of the time and place of the hearing. [1225]

15. If the accused denies the charge, she shall, unless the Chief Officer of Police is satisfied with the explanation she has offered, be ordered to appear before the Chief Officer of Police and shall have an opportunity of hearing the evidence against her and of cross-examining the witnesses and of calling witnesses in her defence. [1226]

16. The decision of the Chief Officer of Police shall be written upon the misconduct form and at once notified to the accused, who shall write on the misconduct form her acknowledgment of her having read the decision. [1227]

17. In the case of the Metropolitan Police the procedure in discipline cases shall be as specially approved by the Secretary of State and published in the General Orders of that force. [1228]

18. The following provisions shall have effect with respect to disciplinary proceedings before the Chief Officer of Police :—

- (1) If the accused so desires, she shall be allowed to have another serving member of the police force of which she is a member, selected by herself, to assist her in presenting her case.
- (2) If the accused absconds or refuses or neglects without good and sufficient cause to attend the proceedings at the time and place appointed, or is serving a sentence of imprisonment or penal servitude, the case may be decided in her absence. [1229]

19.—(1) The Chief Officer of Police may suspend from duty a member of Class A against whom a report or complaint suggesting the commission of an offence against discipline is made; such suspension from duty may continue until the disciplinary proceedings arising out of the said report or complaint have been concluded.

(2) Subject to the provisions of this Rule, these Rules shall continue to apply to a member of Class A who is suspended from duty.

(3) A member of Class A who is suspended from duty shall not be entitled in respect of the period of suspension to pay or to war duty allowance, plain clothes allowance, detective allowance, extra duty allowance or temporary duty allowance, but shall be paid a suspension allowance at such rate not less than one-half and not exceeding two-thirds of the aggregate of her pay and her war duty allowance as the Chief Officer of Police may

determine, provided that in the case of a member of Class A who has been convicted of an offence summarily or on indictment no suspension allowance shall be payable in respect of any period of imprisonment or penal servitude.

(4) A member of Class A who, having been suspended from duty, returns to duty without having been found guilty of any offence shall receive, as from the date of her suspension from duty, her pay and any of the said allowances of which she was in receipt immediately prior to her suspension from duty, less any amount paid to her by way of suspension allowance. [1230]

20. An offence against discipline may be punished by :—

- (1) Dismissal,
- (2) Being required to resign forthwith, or at such date as may be ordered (as an alternative to dismissal),
- (3) Reduction in rank,
- (4) Reduction in rate of pay,
- (5) Forfeiture of merit or good conduct badges (except such as have been granted for an act of courage or bravery),
- (6) Fine,
- (7) Reprimand,
- (8) Caution.

Every punishment, except a caution, shall be entered on the woman's conduct sheet. A caution shall not be so entered. [1231]

21. A reduction in pay, without reduction in rank, shall be limited to a definite period, which shall be stated in the order by which the punishment is inflicted and shall not exceed twelve months, and at the end of the stated period the woman shall be advanced to the rate of pay to which she would have been entitled but for the punishment awarded her, unless the period of reduction has in the meantime been extended by way of punishment for a further offence against discipline. [1232]

22. The infliction of a fine shall not cause any advance in pay (except any special increment which is subject to good conduct) to be retarded or withheld. [1233]

23. The amount of a fine imposed by way of punishment for any one offence shall not exceed one week's pay and shall be recovered by stoppage of pay in amounts not exceeding one day's pay in any week, except in the event of a woman ceasing to be a member of Class A, when the whole amount of any fine then unpaid may be deducted from any pay then due. [1234]

(e) Appeals

24.—(1) A member of Class A who, after the date when these Rules come into force, is punished by dismissal, by being required to resign as an alternative to dismissal, by reduction in rank or by reduction in rate of pay, may appeal to the Secretary of State.

(2) The Secretary of State, unless it appears to him that the case is of such a nature that it can properly be determined without taking oral evidence, shall appoint one or more persons to hold an inquiry and report to time, and any person or persons so appointed shall have power to take evidence on oath and for that purpose to administer oaths.

(3) The Secretary of State may, by order, either allow an appeal, dismiss an appeal or vary the punishment by substituting some other punishment (whether more or less severe) which the Chief Officer of Police might have awarded.

(4) An order under paragraph (3) of this Rule, allowing an appeal or varying the punishment, shall take effect by way of substitution for the decision appealed from and as from the date of the decision appealed from or such later date as may be specified in the order :

Provided that unless the Secretary of State by his order otherwise directs, the member of Class A who has been reinstated in the force or in her rank by that order shall not be entitled to pay or allowances in respect of the period between the date of the decision appealed from and the date when the order takes effect.

(5) The Secretary of State by an order varying the punishment may, if the member of Class A was suspended for a period immediately preceding the date of the decision appealed from, deal with the suspension.

(6) The Secretary of State may, by his order, direct that the member of Class A shall pay the whole or any part of her own costs but, subject to any such direction being given, all costs and expenses of an appeal, including the costs of the parties, shall be defrayed out of the police fund.

(7) Any costs payable under paragraph (6) of this Rule shall be subject to taxation in such manner as the Secretary of State may direct.

(8) An order under paragraph (8) of this Rule shall forthwith be sent to the member of Class A and to the Chief Officer of Police together with, if an inquiry was held, a copy of the report of the person or persons who held the inquiry.

(9) The provisions of the Second Schedule to these Rules shall have effect with regard to proceedings on appeal. [1235]

PART III

Class B

Promotion and Pay

25. A woman under 18 years of age shall not be appointed a member of Class B. [1236]

26.—(1) The Chief Officer of Police may promote such a number of members of Class B as the Secretary of State may approve to each of the ranks of senior auxiliary and leading auxiliary, of which the rank of senior auxiliary shall be the superior.

(2) The ranks of senior auxiliary and leading auxiliary shall not be ranks in the police force. [1237]

27. The rate of pay of a senior auxiliary shall be 95s. 0d. weekly. [1238]

28. The rate of pay of a leading auxiliary shall be 85s. 0d. weekly. [1239]

29. The rate of pay of a member of Class B who is 20 years of age or over, other than a senior or leading auxiliary, shall be according to the following scale :—

							<i>Weekly</i>	
							<i>s.</i>	<i>d.</i>
On appointment	..	..	..	..	..	..	62	6
After 1 year from appointment	..	..	..	..	..	..	65	0
.. 2 years ..	..	..	..	..	..	..	67	6
.. 3 .. ..	..	..	..	..	..	..	70	0
.. 4 .. ..	..	..	..	..	..	..	72	6
.. 5 .. ..	..	..	..	..	..	..	75	0
.. 6 .. ..	..	..	..	..	..	..	77	6
.. 7 .. ..	..	..	..	..	..	..	80	0

[1240]

30. The rate of pay of a member of Class B who is under 20 years of age shall be 55s. 0d. weekly. [1241]

31. In addition to the pay to which she is entitled under the provisions of either Rule 29 or Rule 30, a member of Class B who is employed wholly or

mainly on typing and shorthand duties and who has passed any proficiency tests prescribed in directions given by the Secretary of State shall, subject to such conditions as may be prescribed by the Secretary of State, be entitled to proficiency pay at the rates prescribed in directions so given. [1242]

PART IV

Classes A and B

Periods of duty, leave, deduction of benefits from pay, allowances, personal records and discharge

(a) Periods of Duty

32. Subject to the provisions of Rule 2, the periods for which a member of Class A or Class B may be required to do duty shall be the same and shall be subject to extension on the same conditions as if the Police (Women) Regulations applied to her and, in the case of a member of Class B who is not a member of the police force, as if the Police (Weekly Rest Day) Act, 1910, applied to her. [1243]

(b) Leave

33.—(1) Every member of Class A or Class B shall, so far as the exigencies of duty permit, be granted leave of absence (hereinafter referred to as "annual leave") in addition to the days upon which she is not required to perform duty under the provisions of Rule 32, so that sergeants and senior auxiliaries shall be granted annual leave of 14 days and all other members of Class A or Class B shall be granted annual leave of 12 days in each complete calendar year.

(2) If the exigencies of duty permit, the annual leave shall be permitted to be of one period continuous with the weekly rest days of the weeks in which the leave is taken. [1244]

34. A member of Class A or Class B may be granted special or sick leave with or without pay for such periods and on such conditions as the Secretary of State may from time to time by directions prescribe:

Provided that where a member of Class A or Class B who is not incapacitated for duty by illness is relieved of duty on account of her having been in contact with infectious disease without her own default, she will not be liable to any deduction from pay or from annual or other leave in respect of any such absence from duty. [1245]

(c) Deduction of benefits from pay

35. The pay of a member of Class A or Class B during a period of sick leave shall be reduced by the amount of any benefit for which she may have qualified under the National Health Insurance Acts, 1936 to 1941, by the amount of any payment which may be made to her in respect of the period of leave under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939, and by the amount of any weekly payment which she may receive in respect of that period under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for injury or sickness. [1246]

(d) Allowances

36. Subject to the provisions of Rules 37, 38 and 39, a member of Class A or Class B shall be entitled to the same allowances on the same conditions as a woman member of the police force to whom the Police (Women) Regulations apply. [1247]

37. For the purpose of determining her entitlement to those of the allowances provided for by Rule 36, which are known as subsistence and lodging allowances, a member of Class A or Class B who is living away from her home shall be treated as if the place where she is living were her home. [1248]

38. A member of Class B shall not be entitled to be paid a rent allowance or a plain clothes allowance. [1249]

39. A member of Class A or Class B shall be paid such other allowances of such an amount and on such conditions as the Secretary of State may direct. [1250]

(c) *Personal Records*

40.—(1) The Chief Officer of Police shall cause a personal record of each member of Class A or Class B to be kept and, if the member is transferred to the Women's Auxiliary Police Corps of another police force, shall transmit the record, or a certified copy thereof, to the Chief Officer of Police of that force.

(2) The personal record of each such member shall contain entries of her description, including the number of her national registration identity card, and the registration number of her certificate of registration (if any) issued under the National Service Acts, 1939 to 1942, particulars of her birth-place and date of birth, her family, her previous service (if any) in the civil service, in or in connection with any of the armed forces of the Crown, the National Fire Service, the Auxiliary Fire Service, or as a member of a police force or as an auxiliary policewoman and, as regards her service as an auxiliary policewoman, particulars of the date of her appointment, all postings, transfers and removals, all periods of leave with an explanation of the reason for each period, all commendations, awards and, in the case of a member of Class A, punishments, other than cautions and, in the case of a member of Class B, adverse reports, the date of her ceasing to be an auxiliary policewoman, with the reason, cause or manner thereof. [1251]

41.—(1) Every member of Class A or Class B shall, on ceasing to be an auxiliary policewoman, be given a certificate showing the period of her service and the reason, cause or manner of her so ceasing, together with particulars of her personal description.

(2) The certificate shall show the cause of the member ceasing to be an auxiliary policewoman, according to the circumstances of the case, in one of the following ways :—

Services no longer required ;

Discharged—

(a) on pension,

(b) on account of war service injury,

(c) on account of war injury received off duty, or

(d) on account of ill-health ;

Released to join the armed forces of the Crown or the Women's Royal Naval Service ;

Released for industrial work of national importance ;

Discharged as unsuitable ;

Resigned ;

Required to resign ;

Dismissed ;

and the Chief Officer of Police may append thereto any recommendation which he feels justified in giving, such as :—

Her conduct was exemplary ;

Her conduct was very good ;

Her conduct was good. [1252]

(f) *Discharge*

42. Subject to any directions given by the Secretary of State, the Chief Officer of Police may terminate the appointment of any member of Class A or Class B by giving her not less than one week's notice. [1253]

PART V

*Class C**Promotion and allowances*(a) *Promotion*

43. Members of Class C may be promoted to such honorary ranks with such designations as the Chief Officer of Police, with the approval of the Secretary of State, may determine. [1254]

(b) *Allowances*

44.—(1) There may be paid to members of Class C sums by way of—

- (a) reimbursement of out-of-pocket expenses necessarily incurred in the execution of duty or an allowance in lieu thereof,
- (b) an allowance in consideration of wages lost by such a member while required for duty or during a period of temporary incapacitation for following her ordinary employment by infirmity of mind or body occasioned by an injury received in the execution of her duty without her own default or by illness contracted in the execution of her duty without her own default, and
- (c) allowances in respect of such other matters as the Secretary of State may approve :

Provided that any allowance so paid shall be of such amount and subject to such conditions as the Secretary of State may from time to time approve.

(2) Except as expressly provided in this Rule, a member of Class C shall not be entitled to any remuneration in respect of her services as such. [1255]

PART VI

*Classes A, B and C**Equipment*

45. Every auxiliary policewoman shall return, either on demand or on the termination of her service, any uniform or equipment issued to her and shall be liable to defray the cost of the replacement or repair, as the case may be, of any such uniform or equipment which, through her own default, is not returned or has been consumed, destroyed or lost, or has otherwise become defective. [1256]

PART VII

*Classes A, B and C**Pensions*

46.—(1) Subject to the provisions of paragraphs (2) and (3) of this Rule, the provisions of the Police Pensions Acts, 1921 and 1926, shall apply to every member of Class A or Class B who after the 31st day of March, 1945, serves as such.

(2) The said Acts shall apply to such an auxiliary policewoman in the same manner as if she were a member of the first class of the police reserve who is called up for active service with a police force.

(3) Section 27 of the Police Pensions Act, 1921, shall only apply in respect of an injury to such an auxiliary policewoman which is received either after the 31st day of March, 1945, or is attributable wholly or mainly to events occurring after that date, and any grant under the said section shall be based on her service in the Women's Auxiliary Police Corps after that date. [1257]

47.—(1) Subject as hereinafter provided, a member of Class C who is permanently incapacitated for following her ordinary employment by infirmity of mind or body occasioned by an injury received in the execution of her duty without her own default or by illness which is shown to the satisfaction of the Police Authority to have been contracted in the execution of her duty without her own default shall be entitled to a pension or gratuity ; and if such a member dies from the effect of any such injury or illness as aforesaid, her children shall be entitled to allowances, and such allowances shall be at the same rates and subject to the same conditions, as nearly as may be, as similar grants to a woman member of a police force and to her children under the Police Pensions Acts, 1921 and 1926.

(2) For the purpose of reckoning any such grant the following provisions shall apply :—

(a) the period of approved service shall be service as a member of Class C after the 31st day of March, 1945 ;

(b) the pay shall be reckoned at the rate of 62s. 6d. weekly. [1258]

PART VIII

General

48.—(1) The service of a member of Class A to be reckoned for the purposes of promotion, leave and pay shall be the sum of the following periods, that is to say :—

(a) her service as a member of the said Class A ; and

(b) each complete calendar month after the 3rd day of September, 1939, and before the 1st day of April, 1945, during the whole of which she rendered whole-time paid service as a member of the Women's Auxiliary Police Corps and was assigned to duties which were wholly or mainly street patrol duties, motor patrol duties or outside detective duties.

(2) The service of a member of Class B to be reckoned for the purposes of leave and pay shall be her whole-time paid service after the 3rd day of September, 1939, as a member of the Women's Auxiliary Police Corps.

(3) In this Rule the term " whole-time paid service " includes all leave with full pay, any period of leave without full pay not exceeding seven days in duration, and any period of absence or suspension with full pay or the equivalent of full pay ; and for the purposes of this paragraph all deductions made under the provisions of Rule 35 shall be ignored. [1259]

49. In these Rules the expression " Police (Women) Regulations " means the Regulations made by the Secretary of State under section 4 of the Police Act, 1919, which apply to women members of a police force and are for the time being in force. [1260]

50.—(1) These Rules may be cited as the Women's Auxiliary Police Corps Rules, 1945.

(2) These Rules shall come into force on the first day of April, 1945.

(3) These Rules shall apply to all auxiliary policewomen serving under the directions of the Chief Officer of Police of any police force in England or Wales to which the Police Act, 1919, applies. [1261]

Rule 9

FIRST SCHEDULE

Code of Offences against Discipline

Any member of Class A of the Women's Auxiliary Police Corps commits an offence against discipline if she is guilty of :—

- (1) *Discreditable Conduct*, that is to say, if she acts in a disorderly manner or any manner prejudicial to discipline or likely to bring discredit on the reputation of the force or of the Police Service.
- (2) *Insubordinate or oppressive conduct*, that is to say, if she—
 - (a) is insubordinate by word, act or demeanour, or
 - (b) is guilty of oppressive or tyrannical conduct towards an inferior in rank, or
 - (c) uses obscene, abusive or insulting language to any other member of the force, or
 - (d) wilfully or negligently makes any false complaint or statement against any member of the force, or
 - (e) assaults any other member of the force, or
 - (f) overholds any complaint or report against any member of the force.
- (3) *Disobedience to Orders*, that is to say, if she disobeys or without good and sufficient cause omits or neglects to carry out any lawful order, written or otherwise.
- (4) *Neglect of Duty*, that is to say, if she—
 - (a) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which is her duty as a constable, or
 - (b) idles or gossips while on duty, or
 - (c) fails to work her beat in accordance with orders, or leaves her beat, point or other place of duty to which she has been ordered, without due permission or sufficient cause, or
 - (d) by carelessness or neglect permits a prisoner to escape, or
 - (e) fails, when knowing where any offender is to be found, to report the same, or to make due exertions for making that offender amenable to justice, or
 - (f) fails to report any matter which it is her duty to report, or
 - (g) fails to report anything which she knows concerning a criminal charge, or fails to disclose any evidence which she, or any person within her knowledge, can give for or against any prisoner or defendant to a criminal charge, or
 - (h) omits to make any necessary entry in any official document or book, or
 - (i) neglects, or without good and sufficient cause omits, to carry out any instructions of a medical officer of the force, or, while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard her return to duty.
- (5) *Falsehood or Prevarication*, that is to say, if she—
 - (a) knowingly makes or signs any false statement in any official document or book, or
 - (b) wilfully or negligently makes any false, misleading or inaccurate statement, or
 - (c) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein.
- (6) *Breach of Confidence*, that is to say, if she—
 - (a) divulges any matter which it is her duty to keep secret, or
 - (b) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons, or
 - (c) without proper authority communicates to the public press, or to any unauthorised person, any matter connected with the force, or
 - (d) without proper authority shows to any person outside the force any book or written or printed document the property of the Police Authority, or

- (e) makes any anonymous communication to the Police Authority or the Chief Officer of Police or any superior officer, or
 - (f) canvasses any member of the Police Authority or of any County, City or Borough Council with regard to any matter concerning the force, or
 - (g) signs or circulates any petition or statement with regard to any matter concerning the force, except through the proper channel of correspondence to the Chief Officer of Police or the Police Authority, or in accordance with any method approved by the Secretary of State, or
 - (h) calls or attends any unauthorised meeting to discuss any matter concerning the force.
- (7) *Corrupt Practice*, that is to say, if she—
- (a) receives any bribe, or
 - (b) fails to account for or to make a prompt and true return of any money or property received by her in her official capacity, or
 - (c) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial without the consent of the Chief Officer of Police or the Police Authority, or
 - (d) places herself under pecuniary obligation to any publican, beer-retailer, spirit-grocer, or any person who holds a licence concerning the granting or renewal of which the police may have to report or give evidence, or
 - (e) improperly uses her character and position as a member of the force for her private advantage, or
 - (f) in her capacity as a member of the force, writes, signs or gives, without the sanction of the Chief Officer of Police, any testimonial of character or other recommendation with the object of obtaining employment for any person or of supporting an application for the grant of a licence of any kind, or
 - (g) without the sanction of the Chief Officer of Police, supports an application for the grant of a licence of any kind.
- (8) *Unlawful or unnecessary exercise of authority*, that is to say, if she—
- (a) without good and sufficient cause makes any unlawful or unnecessary arrest, or
 - (b) uses any unnecessary violence to any prisoner or other person with whom she may be brought into contact in the execution of her duty, or
 - (c) is uncivil to any member of the public.
- (9) *Malingering*, that is to say, if she feigns or exaggerates any sickness or injury with a view to evading duty.
- (10) *Absence without leave or being late for duty*, that is to say, if she without reasonable excuse is absent without leave from, or is late for, any parade, Court, or any other duty.
- (11) *Uncleanliness*, that is to say, if she while on duty or while off duty in uniform in a public place is improperly dressed or is dirty or untidy in her person, clothing or accoutrements.
- (12) *Damage to clothing or other articles supplied*, that is to say, if she—
- (a) wilfully or by carelessness causes any waste, loss or damage to any article of clothing or accoutrement, or to any book, document, or other property of the Police Authority, served out to her or used by her or entrusted to her care, or
 - (b) fails to report any loss or damage as above, however caused.
- (13) *Drunkenness*, that is to say, if she while on or off duty, is unfit for duty through drink.
- (14) *Drinking on duty or soliciting drink*, that is to say, if she—
- (a) without the consent of her superior officer, drinks, or receives from any other person, any intoxicating liquor while she is on duty, or
 - (b) demands, or endeavours to persuade any other person to give her, or to purchase or obtain for her, any intoxicating liquor while she is on duty.

- (15) *Entering licensed premises, etc., while on duty*, that is to say, if she enters, while on duty, any premises licensed under the Liquor Licensing laws, or any other premises where liquors are stored or distributed, when her presence there is not required in the execution of her duty.
- (16) If she lends money to any superior or borrows from or accepts any present from any inferior in rank.
- (17) Any member of Class A of the Women's Auxiliary Police Corps also commits an offence against discipline, and shall be liable to punishment as provided in these Rules, if she is guilty of an offence which is punishable on conviction, whether summarily or on indictment, or if she connives at or is knowingly an accessory to any offence against discipline under this Code. [1262]

Rule 24

SECOND SCHEDULE

PART I

Notice of Appeal, etc.

1. A member of Class A who desires to appeal shall send to the Secretary of State a notice of appeal in the form set out below.

Form of Notice of Appeal

I,....., on the.....day
of....., 19....., being a member of Class A of the
Women's Auxiliary Police Corps holding the rank of.....
in the.....police force was punished by

being { dismissed } from that force }
 { required to resign }
 { reduced in rank to..... } on the ground that.....
 { reduced in rate of pay to..... }

Give name and
number.

Omit what is
unnecessary.

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Here state the
charge or
charges under
the Code of
Offences
against
Discipline or
such other
grounds, if any,
as were given
for the punish-
ment.

I received notification of the decision on.....
and acknowledged having read the decision on.....

Give dates.

I desire to appeal against the said finding and punishment
punishment.

Omit the
alternative
which does not
apply.

I desire
do not desire to submit additional evidence not taken into con-
sideration at the hearing of the charge(s) against me.

I annex—

(1) a concise statement (marked A) of the grounds on which I
desire to appeal :

Omit any part
of this para-
graph which
does not apply.

(2) a list (marked B) of the documents, if any (other than docu-
ments produced at the hearing of the charge) which I desire to
submit :

(3) a list (marked C) of the names and addresses of the witnesses
I desire to call, with a concise statement of the material facts which
each such witness will prove.

At the date on which I was so punished I was in receipt of pay at the
rate of £..... per week.

Omit if there
was a period
of suspension
immediately
prior to the
punishment.

Omit if there was no period of suspension immediately prior to the punishment.

Before being so punished I was suspended on the..... day of....., 19....., at which date I was in receipt of pay at the rate of £..... per week.

While suspended I received a suspension allowance at the rate of £..... per week.

Omit the alternative which does not apply.

After being suspended I ^{was} ~~was not~~ notified that my period of suspension would be deducted in reckoning my approved service for purposes of pension.

Give address to which sent. Give date on which sent.

I declare that a full and true copy of this notice of appeal including the accompanying statement(s), has been sent to..... as or on behalf of the respondent on.....

Signature.....

Address

Date....., 19.....

2. Subject to paragraph 5, the notice of appeal shall be sent to the Secretary of State and a copy thereof shall be sent to the respondent within a period of ten days of the notification to the appellant of the decision appealed from.

3. The respondent shall send to the Secretary of State a statement giving particulars of the facts or contentions on which he relies and of the documentary or other evidence which he desires to submit and declaring whether, if an inquiry is held, he wishes to appear in person or by a legal or other representative and shall also send to him, when so required, such number of copies of the said statement and such papers, reports, records and other documents as the Secretary of State may specify.

4.—(1) Subject to paragraph 5, the statement referred to in paragraph 3 shall be sent to the Secretary of State and a copy thereof shall be sent to the appellant within a period of ten days from the receipt by the respondent of a copy of the notice of appeal.

(2) Copies of any papers, reports, records or other documents specified by the Secretary of State under paragraph 3, of which the appellant does not already possess a copy, shall be sent to the appellant as soon as may be after they have been sent to the Secretary of State.

5. If the Secretary of State so directs in any particular case, whether before or after the expiration of the period of ten days mentioned in paragraphs 2 and 4, a longer period shall be substituted for the period of ten days. [1263]

PART II

Proceedings before a Tribunal

6.—(1) The Tribunal shall appoint a day for the holding of the inquiry and shall cause notice thereof to be sent to the appellant, the respondent and the Secretary of State, not less than seven days before the day so appointed.

(2) It shall be within the discretion of the Tribunal to proceed with the inquiry on the appointed day in the absence of either party, whether represented or not, if it appears to be just and proper so to do, and to adjourn the inquiry from time to time as may appear necessary for the due hearing of the case.

(3) The Tribunal may, at any time before the conclusion of the inquiry, allow the notice of appeal or any documents annexed thereto, the respondent's statement or any papers, reports, records or other documents specified by the Secretary of State under paragraph 3 to be amended as it thinks just.

(4) The appellant may, at any time before the day appointed for the holding of the inquiry, withdraw her appeal by giving notice in writing to the Secretary of State.

7. The appellant shall have the right to appear at the inquiry by a serving member of a police force, or, with the consent of the Tribunal, by counsel or a solicitor :

Provided that the appellant shall be entitled, in any case in which the respondent appears by the Clerk or other officer of the Police Authority or by a solicitor, to appear by a solicitor and, in any case in which the respondent appears by counsel, to appear by counsel.

8. The respondent shall have the right to appear at the inquiry by a serving member of the police force or by the Clerk or other officer of the Police Authority or, with the consent of the Tribunal, by counsel or a solicitor.

9. Unless the Secretary of State otherwise directs, the inquiry shall be held in private :

Provided that it shall be within the discretion of the Tribunal to permit such person or persons as it may consider desirable to be present during the whole or such part of the inquiry as it may think fit, and may require from any persons who are permitted to be present an undertaking that they will not make public any report of, or statement with regard to, the proceedings, except at such time or under such conditions as may be specified.

10.—(1) Unless the Tribunal otherwise determines, the inquiry shall be conducted by way of rehearing the charge and the evidence in support thereof shall be given first.

(2) It shall be within the discretion of the Tribunal to determine any question as to whether any evidence tendered shall be admitted or whether any question shall or shall not be put to a witness.

(3) Unless the Secretary of State otherwise directs, a shorthand note of the evidence given at the inquiry shall be taken.

11. The Tribunal shall draw up and submit to the Secretary of State, as soon as may be after the termination of the inquiry, a report, in triplicate, of its findings, setting out—

- (a) a statement of the facts admitted or found to be proved, so far as material to the case ;
- (b) a statement as to the charge or charges found to be proved ;
- (c) a statement as to whether the punishment was, in its opinion, just and proper having regard to all the circumstances before it and, if not, whether any, and if so what, punishment should, in its opinion, be substituted therefor ;
- (d) where the appeal is against punishment by dismissal, by being required to resign or by reduction in rank, a recommendation whether, if the Secretary of State should order the appellant to be reinstated in the force or in her rank, such reinstatement should take effect with full pay as from the date of the appellant's suspension, dismissal, resignation or reduction, as the case may be ;
- (e) where the auxiliary policewoman was suspended for a period immediately preceding the date of the decision appealed from and the Tribunal recommend that the punishment should be varied, a recommendation whether the suspension allowance should be increased ;
- (f) any other matter arising out of the appeal which it desires to bring to the notice of the Secretary of State ;

and shall send therewith to the Secretary of State the shorthand note of the evidence given at the inquiry, if such note has been taken, the notice of appeal and the documents annexed thereto, the statement of the respondent and all other documents produced at the inquiry or otherwise furnished in connection therewith.

12. If the Tribunal consists of more than one member, the powers conferred upon the Tribunal by sub-paragraph (1) of paragraph 6, paragraph 7 and paragraph 8 shall be exercised by the member appointed by the Secretary of State to preside.

PART III

General

13. Where any notice or other document is required by the provisions of this Schedule to be sent by or to the Secretary of State or any other person or authority, it shall be a sufficient compliance with the provisions of this Schedule if such notice or other document is posted, within such time, if any, as is prescribed by the provisions of this Schedule, in a registered letter directed, in the case of a letter to the Secretary of State, to the Under-Secretary of State, Home Office, London, S.W.1, and in any other case to the person or authority for whom it is intended at his or its usual office or other ordinary address.

14. If any question arises as to the proper compliance with any provision of this Schedule, it shall be determined by the Secretary of State, whose decision shall be final.

15. In this Schedule—

“the respondent” means the Chief Officer of Police; and

“the Tribunal” means the person or persons appointed by the Secretary of State under paragraph (2) of Rule 24. [1265]

THE POLICE (EMPLOYMENT AND OFFENCES) ORDER, 1945

S. R. & O., 1945, No. 745

June 13, 1945

In pursuance of the powers conferred on me by Regulation 29B of the Defence (General) Regulations, 1939, I hereby order as follows :—

1.—(1) In Article 4 of the Police (Employment and Offences) Order, 1942, the words “and has not attained eighteen years of age” are hereby revoked.

(2) Article 5 of the said Order is hereby revoked. [1266]

2. Article 1 of the Police (Employment and Offences) (No. 3) Order, 1942, is hereby revoked. [1267]

3.—(1) This Order may be cited as the Police (Employment and Offences) Order, 1945.

(2) This Order shall come into operation on the first day of July, 1945. [1268]

* * * * *

Note as to S. R. & O., 1945, No. 745.—Article 1 revokes the provisions (a) requiring persons of 18 years of age and over who are employed part-time as constables or members of the Women's Auxiliary Police Corps or police auxiliary messenger service to continue in their employment until their services are dispensed with, and (b) rendering those persons liable to penalties on summary conviction for disobedience to lawful orders or for absence from duty. Article 2 revokes the provisions giving power to require persons who have been employed whole-time as constables and whose services have been dispensed with to become special constables.

THE POLICE AMALGAMATION (WILTS) ORDER, 1945

S. R. & O., 1945, No. 983

August 13, 1945

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows :—

1. The Police Amalgamation (Wilts) Order, 1943 (which amalgamated the police forces of Wilts and New Sarum and provided for the maintenance

of the joint force by a joint authority), shall be varied by inserting after Article 7 thereof the following Article :—

“7A. The joint authority may delegate, subject to any directions given at any time by the Secretary of State, its functions under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, in respect to the City of New Sarum to the Watch Committee of that City”.

[1269]

2. This Order may be cited as the Police Amalgamation (Wilts) Order, 1945. [1270]

* * * *

THE POLICE (EMPLOYMENT AND OFFENCES) (NO. 2) ORDER, 1945

S. R. & O., 1945, No. 1584

December 18, 1945

In pursuance of the powers conferred on me by Regulation 29B of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. The Police (Employment and Offences) Order, 1942, the Police (Employment and Offences) (No. 2) Order, 1942, and the Police (Employment and Offences) (No. 3) Order, 1942, are hereby revoked. [1271]

2.—(1) This Order may be cited as the Police (Employment and Offences) (No. 2) Order, 1945.

(2) This Order shall come into operation on the first day of January, 1946. [1272]

* * * *

Note as to S. R. & O., 1945, No. 1584.—This Order revokes the provisions (a) requiring persons employed whole-time as constables or members of the Women's Auxiliary Police Corps or police auxiliary messenger service to continue in their employment until their services are dispensed with, (b) rendering such persons liable to penalties on summary conviction for disobedience to lawful orders or for absence from duty, and (c) enabling persons who have so been employed and whose services have been dispensed with to be recalled to their employment.

THE SPECIAL CONSTABLES ORDER (NO. 2), 1945

S. R. & O., 1945, No. 1640

December 20, 1945

Whereas by the Special Constables Act, 1914, as amended by the Special Constables Act, 1923, power is conferred on His Majesty, by Order in Council, to make Regulations with respect to the appointment and position of special constables appointed under the Special Constables Act, 1831, or under section one hundred and ninety-six of the Municipal Corporations Act, 1882, and by these Regulations to make such provisions as are mentioned in the said Special Constables Act, 1914, as so amended :—

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) In subsection (1) of paragraph 11 of the Special Constables Order, 1923 (which paragraph relates to compensation for injuries received by special constables on duty), the words “or gratuity” shall be omitted, and after the word “allowances” where it first occurs there shall be inserted the words “or gratuities”.

(2) For clauses (a) and (b) of subsection (2) of the said paragraph there shall be substituted the following clauses :—

“(a) The period of approved service shall be reckoned as one completed year if the period for which the special constable has held office since his last appointment is less than three years. If such period exceeds three years, the period of approved service shall be reckoned as follows :—

<i>Number of completed years for which the special constable has held office since his last appointment</i>							<i>Total period of approved service to be reckoned</i>
3	}						2
4		..	..	..	..	..
5							
6	}	..	..	..	..	..	3
7							
8		..	..	..	..	..	4
9	}						
10		..	..	..	..	..	5
11							
12	}	..	..	..	..	..	6
13							
14		..	..	..	..	..	7
15	}						
16		..	..	..	..	..	8
17							
18	}	..	..	..	..	..	9
19 or more		..	..	..	..	..	10

(b) The pay shall be reckoned as at the rate of 90s. weekly with an addition of 1s. 6d. weekly for each completed year (other than the first two) for which the special constable has held the office since his last appointment, subject, however, to a maximum of 117s. weekly.”

(3) In subsection (3) of the said paragraph after the word “allowances” there shall be inserted the words “or gratuities”. [1273]

2. The references in paragraph 1 of the Special Constables Order, 1942, and in paragraph 3 of the Special Constables Order, 1945, to paragraph 11 of the Special Constables Order, 1923, shall be construed as references to the said paragraph as amended by this Order. [1274]

3. This Order may be cited as the Special Constables Order (No. 2), 1945. [1275]

* * * * *

THE POLICE REGULATIONS OF DECEMBER 21, 1945

S. R. & O., 1945, No. 1651

December 21, 1945

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations * :—

1. In proviso (a) to paragraph (2) of Regulation 7 of the said Regulations after the words "*service in a police force*" there shall be inserted the words "*otherwise than as an auxiliary*". [1276]

2. At the end of Regulation 10 of the said Regulations there shall be added the following proviso :—

"(c) *dispense with the period of probation if the constable has served as an auxiliary for a period of not less than two years.*" [1277]

3. In paragraph (3) of Regulation 20B the words "*war duty allowance*" where they first occur shall be omitted, and for the words "*the aggregate of his pay and his war duty allowance*" there shall be substituted the words "*his pay*". [1278]

4. In Regulation 22 of the said Regulations the words "*This Regulation shall apply to any reduction of pay awarded by way of punishment for an offence before the date of these Regulations*" shall be omitted. [1279]

5. In Regulation 23 of the said Regulations the words "*the increment in the Scale of Pay for a constable which is dependent on completion of the probationary period, or*" shall be omitted. [1280]

6. For paragraph (3) of Regulation 27A of the said Regulations there shall be substituted the following paragraph :—

"(3) *A member of a police force who is promoted substantively or temporarily and has, less than two years before the date of promotion, held the same rank by virtue of this Regulation shall, for the purpose of increments in the scale of pay for that rank, be entitled to aggregate all his former service in that rank by virtue of this Regulation.*" [1281]

7. At the end of paragraph (3) of Regulation 28 of the said Regulations there shall be added the words "*and service as an auxiliary*". [1282]

8. For Regulation 41 of the said Regulations there shall be substituted the following Regulation :—

"41. *Every member of a police force of the rank of Chief Inspector or any lower rank shall, so far as the exigencies of duty permit, be granted leave of absence (hereinafter referred to as annual leave) in addition to the days upon which he is not required to perform police duties in compliance with the Police (Weekly Rest Day) Act, 1910, so that the members of the several ranks shall be granted annual leave in each complete calendar year as follows :—*

	days
Chief Inspectors	27
Sub-Divisional Inspectors and Station Inspectors in the Metropolitan Police	25
Inspectors	24
Sub-Inspectors	22
Metropolitan Police Station Sergeants and Metropolitan Police First Class Sergeants (Criminal Investigation Department)	22
Sergeants	20
Constables	18

Provided that a member of a police force, in the calendar year in which he is appointed and in that in which he retires in pursuance of a notice of intention to retire, shall, so far as the exigencies of duty permit, be granted annual leave at the rate of one-twelfth of the period hereinbefore specified for his rank for each complete month of service in that year, a fraction of a day being reckoned as one day." [1283]

9. In Regulation 42 of the said Regulations for the words "*one day's leave*" there shall be substituted the words "*leave for one day and a half*". [1284]

10. For Regulations 44, 45 and 46 of the said Regulations the following Regulations shall be substituted :—

"44.—(1) *The Chief Officer of Police shall cause a personal record of each member of the police force to be kept and, if that member becomes a member of another police force, shall, on demand by the Chief Officer of Police of that other force, transmit to him a copy thereof.*

(2) *The personal record shall contain entries of the man's description, particulars of his birth place and date of birth, his family, any service in the Royal Navy, the Army, the Royal Air Force, the Civil Service, or in any other police force or as an auxiliary, the date of his appointment, all postings, transfers and removals, all changes in pay, all promotions, all injuries received, all periods of sickness and of leave, all absence (if records of sickness and leave are not kept separately), all commendations, rewards and punishments and the date of his ceasing to be a member of the force, with the reason, cause or manner thereof.*

45.—(1) *On leaving the force (except in case of transfer, with the written consent of the Chief Officer of Police, to another force) every man shall be given a certificate showing his rank and setting out the period of his service and the reason, cause or manner of his leaving the force, together with particulars of his personal description :*

Provided that, where the man was required to resign or was dismissed, the certificate shall not contain any description of the circumstances in which he was required to resign or was dismissed.

(2) *The Chief Officer of Police may append to the certificate any recommendation which he feels justified in giving, such as :—*

His conduct was exemplary

His conduct was very good

His conduct was good." [1285]

11. In paragraph (2) of Regulation 47 of the said Regulations there shall be inserted at the beginning of the paragraph the words "*Subject to Regulation 27A*". [1286]

12. In paragraph (1) of Regulation 48 after the words "*this Regulation*" there shall be inserted the words "*and of Regulations 27A and 63*". [1287]

13. In paragraph (1) of Regulation 51 of the said Regulations the words "*on probation*" shall be omitted. [1288]

14. In Regulations 53 and 56 of the said Regulations for the words "*Regulation 60*" there shall be substituted the words "*Regulations 60 and 63*". [1289]

15. In the proviso to Regulation 57 of the said Regulations after the words "*twenty-two years*" there shall be inserted the words "*(including service as an auxiliary)*". [1290]

16. After Regulation 62 of the said Regulations the following Regulation shall be inserted :—

"(f) *Auxiliary Service*

63. *For the purpose of applying the scale of pay for constables and of reckoning the qualifying period for the grant of a special or an additional increment there shall be added to the constables' service any period of service as an auxiliary."* [1291]

17. Regulation 64B is hereby revoked. [1292]

18.—(1) In paragraph (3) of Regulation 65 of the said Regulations after the words "*apart from him*" there shall be inserted the words "*or a man who has divorced, or been divorced by, his wife*".

(2) In the proviso to the said paragraph (3) after the word "*wife*" there shall be inserted the words "*or former wife*". [1293]

19.—(1) In paragraph (2) of Regulation 88 of the said Regulations for the words "*during the period within which he would, if the incapacity should cease, be liable under the provisions of subsection (4) of section 12 of the Police Pensions Act, 1921, be required to serve again in the force*" there shall be substituted the words "*during a period which, together with whatever period he was entitled to reckon at the date of his retirement as approved service, amounts to thirty years*".

(2) At the end of the said paragraph there shall be added the following words:—

"*In this paragraph 'approved service' means approved service as defined by section 7 of the Police Pensions Act, 1921.*" [1294]

20. At the end of Regulation 90 of the said Regulations there shall be added the following paragraph:—

"(2) *In these Regulations a reference to service as an auxiliary is to be taken as a reference to all whole-time paid service after the third day of September, 1939, as a police war reservist, as a special constable whose pay was granted under the Special Constables Order, 1940, or, while the constable in question was not in receipt of a pension under the Police Pensions Acts, 1921 and 1926, as a member of the first class of the police reserve, including all leave with full pay and any period of leave without full pay not exceeding seven days in duration, but excluding any period of leave without full pay exceeding seven days in duration and any period of absence or suspension without full pay or the equivalent of full pay; and for the purpose of this paragraph leave shall not be taken to be leave without full pay by reason only that there was deducted from the man's pay the amount of benefits under the National Health Insurance Acts, 1936 to 1941, of payments made under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939, or of any weekly payments under the Workmen's Compensation Acts, 1925 to 1943, and in connection with any reference to service as an auxiliary, a reference to service as an auxiliary in a force shall be taken to include a reference to service as an auxiliary with that force.*" [1295]

21. Paragraph (c) of Regulation 94 is hereby revoked. [1296]

22. These Regulations shall come into force on the first day of January, 1946. [1297]

* * * * *

THE POLICE (WOMEN) REGULATIONS OF DECEMBER 21, 1945

S. R. & O., 1945, No. 1652

December 21, 1945

I, the Right Honourable James Chuter Ede, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred upon me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations * :—

* Words altered or added are printed in italics.

1. In proviso (a) to paragraph (2) of Regulation 3 of the said Regulations after the words "*service in a police force*" there shall be inserted the words "*otherwise than in a relevant auxiliary capacity*". [1298]

2. At the end of Regulation 5 of the said Regulations there shall be added the following proviso :—

"(c) *dispense with the period of probation if the constable has served in a relevant auxiliary capacity for a period of not less than two years.*" [1299]

3. In paragraph (3) of Regulation 14B the words "*war duty allowance*" where they first occur shall be omitted, and for the words "*the aggregate of her pay and her war duty allowance*" there shall be substituted the words "*her pay*". [1300]

4. In Regulation 16 of the said Regulations the words "*This Regulation shall apply to any reduction of pay awarded by way of punishment for an offence before the date of these Regulations*" shall be omitted. [1301]

5. For paragraph (3) of Regulation 20A of the said Regulations there shall be substituted the following paragraph :—

"(3) *A woman member of a police force who is promoted substantively or temporarily and has, less than two years before the date of promotion, held the same rank by virtue of this Regulation shall, for the purpose of increments in the scale of pay for that rank, be entitled to aggregate all her former service in that rank by virtue of this Regulation.*" [1302]

6. At the end of paragraph (2) of Regulation 21 of the said Regulations there shall be added the words "*and service in a relevant auxiliary capacity*". [1303]

7. For Regulation 33 of the said Regulations there shall be substituted the following Regulation :—

"33. *Every woman member of a police force of the rank of Chief Inspector or Sub-Divisional Inspector (if such ranks are adopted under Regulation 1) or of the rank of inspector or any lower rank shall, so far as the exigencies of duty permit, be granted leave of absence (hereinafter referred to as annual leave) in addition to the days upon which she is not required to perform police duties in compliance with the Police (Weekly Rest Day) Act, 1910, so that the members of the several ranks shall be granted annual leave in each complete calendar year as follows :—*

	days
<i>Chief Inspectors in the Metropolitan Police</i>	27
<i>Sub-Divisional Inspectors in the Metropolitan Police</i> ..	25
<i>Inspectors</i>	24
<i>Sergeants</i>	20
<i>Constables</i>	18

Provided that a woman member of a police force, in the calendar year in which she is appointed and in that in which she retires in pursuance of a notice of intention to retire, shall, so far as the exigencies of duty permit, be granted annual leave at the rate of one-twelfth of the period hereinbefore specified for her rank for each complete month of service in that year, a fraction of a day being reckoned as one day." [1304]

8. In Regulation 34 of the said Regulations for the words "*one day's leave*" there shall be substituted the words "*leave for one day and a half*". [1305]

9. For Regulations 36, 37 and 38 of the said Regulations the following Regulations shall be substituted :—

“ 36.—(1) *The Chief Officer of Police shall cause a personal record of each woman member of the police force to be kept and, if that member becomes a member of another police force, shall, on demand by the Chief Officer of Police of that force, transmit to him a copy thereof.*

(2) *The personal record shall contain entries of the woman's description, particulars of her birth place and date of birth, her family, any service in the Women's Royal Naval Service, the Auxiliary Territorial Service, the Women's Auxiliary Air Force, the Civil Service, and any other police force, or the Women's Auxiliary Police Corps, the date of her appointment, all postings, transfers and removals, all changes in pay, all promotions, all injuries received, all periods of sickness and of leave, all absence (if records of sickness and leave are not kept separately), all commendations, rewards and punishments, and the date of her ceasing to be a member of the force with the reason, cause or manner thereof.*

37.—(1) *On leaving the force (except in case of transfer with the written consent of the Chief Officer of Police to another force) every woman shall be given a certificate showing her rank and stating the period of her service and the reason, cause or manner of her leaving the force, together with particulars of her personal description.*

Provided that where the woman was required to resign or was dismissed the certificate shall not contain any description of the circumstances in which she was required to resign or was dismissed.

(2) *The Chief Officer of Police may append to the certificate any recommendation which he feels justified in giving, such as—*

Her conduct was exemplary

Her conduct was very good

Her conduct was good.” [1306]

10. In paragraph (2) of Regulation 39 there shall be inserted at the beginning of the paragraph the words “ *Subject to Regulation 20A* ”. [1307]

11. In Regulation 40 there shall be inserted at the beginning of the said Regulation “ *Subject to Regulations 20A and 54* ”. [1308]

12. In paragraph (1) of Regulation 42 of the said Regulations the words “ *on probation* ” shall be omitted. [1309]

13. In Regulations 44 and 47 of the said Regulations for the words “ *Regulation 51* ” there shall be substituted the words “ *Regulations 51 and 54* ”. [1310]

14. In the proviso to Regulation 48 of the said Regulations after the words “ *22 years* ” there shall be inserted the words “ *(including service in a relevant auxiliary capacity)* ”. [1311]

15. After Regulation 53 of the said Regulations the following Regulation shall be inserted :—

“ (f) *Service in a relevant auxiliary capacity*

54. *For the purpose of applying the scale of pay for women members of a police force holding the rank of constable and of reckoning the qualifying period for the grant of a special or an additional increment there shall be added to the constable's service any period of service in a relevant auxiliary capacity.” [1312]*

16. Regulation 56B is hereby revoked. [1313]

17.—(1) In paragraph (2) of Regulation 79 of the said Regulations for the words “ *during the period within which she would, if the incapacity should cease, be liable under the provisions of subsection (4) of section 12 of the Police*

Pensions Act, 1921, to be required to serve again in the force "there shall be substituted the words "*during a period which, together with whatever period she was entitled to reckon, at the date of her retirement as approved service, amounts to thirty years*".

(2) At the end of the said paragraph there shall be added the following words :—

"*In this paragraph 'approved service' means approved service as defined by section 7 of the Police Pensions Act, 1921.*" [1314]

18. At the end of Regulation 82 of the said Regulations there shall be added the following paragraph :—

"(2) (i) *In these Regulations a reference to service in a relevant auxiliary capacity is to be taken as a reference to all service as a member of Class A of the Women's Auxiliary Police Corps and, while the constable in question was not in receipt of a pension under the Police Pensions Acts, 1921 and 1926, to all whole-time paid service after the 3rd day of September, 1939, as a member of the first class of the Police Reserve and while the constable in question was assigned to duties which were wholly or mainly street patrol duties, motor patrol duties or outside detective duties, to whole-time paid service as a member of the Women's Auxiliary Police Corps, after the 3rd day of September, 1939, and before the 1st day of April, 1945 :*

Provided that for the purpose of reckoning the length of such whole-time paid service account shall only be taken of each complete calendar month during the whole of which the constable in question was assigned to such duties.

(ii) *In connection with any reference to service in a relevant auxiliary capacity a reference to service in a force shall be taken to include a reference to service as a member of the Women's Auxiliary Police Corps under the directions of the Chief Officer of Police of the force.*

(iii) *In this paragraph whole-time paid service includes all leave with pay, any period of leave without full pay not exceeding 7 days in duration and any period of absence or suspension with full pay or the equivalent of full pay and for this purpose leave shall not be taken to be leave without full pay by reason only that there is deducted from the constable's pay the amount of benefits under the National Health Insurance Acts, 1936 to 1941, of payments made under any scheme made by the Minister of Pensions under the Personal Injuries (Emergency Provisions) Act, 1939, or of any weekly payments under the Workmen's Compensation Acts, 1925 to 1943."*

[1315]

19. These Regulations shall come into force on the first day of January, 1946. [1316]

* * * * *

THE POLICE WAR RESERVE (NO. 2) RULES, 1945

S. R. & O., 1945, No. 1653

December 21, 1945

In pursuance of the power conferred upon me by Regulation 40AC of the Defence (General) Regulations, 1939, I hereby make the following Rules amending the Police War Reserve Rules, 1945 :—

1. In paragraph (3) of Rule 12 of the said Rules the words "war duty allowance" where they first occur shall be omitted, and for the words "the

aggregate of his pay and his war duty allowance " there shall be substituted the words " his pay ". [1317]

2. In paragraph (1) of Rule 20 of the said Rules for the word " fourteen " and for the word " twelve " there shall be substituted the word " twenty " and the word " eighteen " respectively ; and at the end of the said paragraph there shall be added the following proviso :—

" Provided that a police war reservist, in the calendar year in which he is appointed and in that in which he resigns or is discharged, shall, so far as the exigencies of duty permit, be granted annual leave at the rate of one-twelfth of the period hereinbefore specified for his rank for each complete month of service in that year, a fraction of a day being reckoned as one day ". [1318]

3. For Rule 23 of the said Rules there shall be substituted the following Rule :—

" 23.—(1) Every Police War Reservist shall, on ceasing to be a police war reservist, be given a certificate showing the period of his service and the reason, cause or manner of his so ceasing, together with particulars of his personal description :

Provided that, where the Police War Reservist was required to resign or was dismissed, the certificate shall not contain any description of the circumstances in which he was required to resign or was dismissed.

(2) The Chief Officer of Police may append to the certificate any recommendation which he feels justified in giving, such as—

His conduct was exemplary

His conduct was very good

His conduct was good ". [1319]

4. In paragraph (2) of Rule 34 of the said Rules, after the words " a special constable " there shall be inserted the words " whose pay was granted under the Special Constables Order, 1940. [1320]

5.—(1) These Rules may be cited as the Police War Reserve (No. 2) Rules, 1945.

(2) These Rules shall come into force on the first day of January, 1946. [1321]

* * * * *

Note as to S. R. & O., 1945, No. 1653.—*The purpose of the amendment made (a) in Rule 1 is to make an amendment consequential on the abolition of war duty allowances, (b) in Rule 2 is to increase the amount of annual leave, (c) in Rule 3 is to simplify the procedure as to granting certificates of discharge, and (d) in Rule 4 is further to define the class of special constables affected.*

THE WOMEN'S AUXILIARY POLICE CORPS (NO. 2) RULES, 1945

S. R. & O., 1945, No. 1654

December 21, 1945

In pursuance of the power conferred upon me by Regulation 40Ac of the Defence (General) Regulations, 1939, I hereby make the following Rules amending the Women's Auxiliary Police Corps Rules, 1945 :—

1. In paragraph (3) of Rule 19 of the said Rules the words " war duty allowance " where they first occur shall be omitted, and for the words " the aggregate of her pay and her war duty allowance " there shall be substituted the words " her pay ". [1322]

2. For Rule 32 of the said Rules there shall be substituted the following Rule :—

“ 32. Subject to the provisions of Rule 2, the period for which a member of Class A or Class B shall be required to do duty shall be the same and shall be subject to extension on the same conditions as if the Police (Women) Regulations applied to her, and, in the case of a member of Class B, who is not a constable, as if the Police (Weekly Rest Day) Act, 1910, applied to her :

Provided that in the case of a member of Class B instead of the payments set out in paragraph (1) of Regulation 30 of the said Regulations there shall be substituted payments on the following scale :—

	Hourly rate	Maximum in any period of 24 hours
	s. d.	s. d.
Senior Auxiliary	2 0	8 0
Leading Auxiliary	1 9	7 0
Member of Class B other than above who is—		
(a) 20 years of age or over	1 6	6 0
(b) under 20 years of age	1 3	5 0.”

[1323]

3. In paragraph (1) of Rule 33 of the said Rules for the figure “ 14 ” and for the figure “ 12 ” there shall be substituted the figure “ 20 ” and the figure “ 18 ” respectively ; and at the end of the said paragraph there shall be added the following proviso :—

“ Provided that a member of Class A or Class B, in the calendar year in which she is appointed and in that in which she resigns or is discharged, shall, so far as the exigencies of duty permit, be granted annual leave at the rate of one-twelfth of the period hereinbefore specified for her rank for each complete month of service in that year, a fraction of a day being reckoned as one day ”. [1324]

4. For Rule 41 of the said Rules there shall be substituted the following Rule :—

“ 41.—(1) Every member of Class A and Class B shall, on ceasing to be an auxiliary policewoman, be given a certificate showing her rank and stating the period of her service and the reason, cause or manner of her so ceasing, together with particulars of her personal description :

Provided that where the member was required to resign or was dismissed the certificate shall not contain any description of the circumstances in which she was required to resign or was dismissed.

(2) The Chief Officer of Police may append to the certificate any recommendation which he feels justified in giving, such as—

Her conduct was exemplary

Her conduct was very good

Her conduct was good ”. [1325]

5.—(1) These Rules may be cited as the Women’s Auxiliary Police Corps (No. 2) Rules, 1945.

(2) These Rules shall come into force on the first day of January, 1946. [1326]

* * * * *

Note as to S. R. & O., 1945, No. 1654.—The purpose of the amendment made (a) in Rule 1 is to make an amendment consequential on the abolition of war duty allowances, (b) in Rule 2 is to provide for overtime rates appropriate to the differences in pay between Class A and Class B, (c) in Rule 3 is to increase the amount of annual leave, and (d) in Rule 4 is to simplify the procedure as to granting certificates of discharge.

PRISONS

ORDERS, CIRCULARS AND MEMORANDA :—
Prison Rules, 1945

PAGE
409

ORDERS, CIRCULARS AND MEMORANDA

THE PRISON RULES, 1945

S. R. & O., 1945, No. 148

February 8, 1945

In pursuance of the power conferred upon me by section 2 of the Prison Act, 1898, I hereby make the following Rules :—

1. These Rules may be cited as the Prison Rules, 1945. [1327]

2. These Rules shall take effect from the fifteenth day of February, 1945. [1328]

3. For Rules 70 to 83 of the Prison Rules, 1933, there shall be substituted the following Rules :—

“(1) *General*

70.—(1) Every officer shall conform to the rules and regulations of the prison and shall support the Governor in the maintenance thereof.

(2) Every officer shall obey the lawful instructions of the Governor.

(3) Every officer shall at once communicate to the Governor any abuse or impropriety which may come to his knowledge.

71. No officer shall be absent from the prison without leave from the Governor.

72. Every officer shall direct the attention of the Governor to any prisoner (whether he complains or not) who appears to be out of health or whose state of mind appears to be deserving of special notice and care, and the Governor shall without delay bring such cases to the notice of the Medical Officer.

73.—(1) No officer in dealing with prisoners shall use force unnecessarily and, in any case in which the application of force to a prisoner is needful, no more force than is necessary shall be used.

(2) No officer shall deliberately act in a manner calculated to provoke a prisoner.

(3) No officer shall allow any undue familiarity between a prisoner and himself or any other officer or servant of the prison ; nor shall he discuss his duties or any matters of discipline or of prison arrangement within the hearing of a prisoner.

(4) No officer shall communicate with a prisoner for an improper purpose.

74.—(1) No officer shall without the authority of the Commissioners carry out any pecuniary or business transaction with or on behalf of any prisoner.

(2) No officer shall without authority bring in or carry out, or attempt to bring in or carry out, or knowingly allow to be brought in or carried out, to or for any prisoner any article whatsoever.

75.—(1) No officer shall receive any unauthorised fee, gratuity or other consideration in connection with his duties as a prison officer.

(2) No officer shall receive any fee, gratuity or other consideration in connection with the admission of any visitors to the prison or to prisoners.

76. No officer shall knowingly communicate with any ex-prisoner or with the friends or relatives of any prisoner or ex-prisoner except with the knowledge of the Governor.

77. No officer shall, directly or indirectly, have any interest in any contract in connection with the prison ; nor shall he receive, directly or indirectly, under any pretence whatever, any fee, gratuity or other consideration from any contractor or from any person tendering or any other person whatever in connection with any such contract :

Provided that an officer may, if the terms of the contract allow, purchase from any contractor provisions for the use of himself and his family at the contract rates.

78. Every officer or servant of the prison shall submit himself to be searched in the prison if called upon to do so by the Governor.

79.—(1) No officer shall, directly or indirectly, make any unauthorised communication to representatives of the Press or any other persons in reference to matters which have become known to him in the course of his official duties.

(2) No officer shall without authority publish any matter or make any public pronouncement relating to prisons or prisoners or the administration of the Prison Department.

80.—(1) Every officer shall occupy such quarters as may be assigned to him and shall at any time vacate them if required to do so.

(2) On the termination of an officer's service he shall give up the quarters he has occupied as soon as he is required to do so ; and on the death of an officer his family shall give up the quarters when required to do so." [1329]

4. After Rule 118 of the said Rules there shall be inserted the following Rule :—

“(iii) *Discipline*

118A. A code of discipline, setting out the offences against discipline, procedure for dealing therewith and the awards therefor, shall be formulated by the Prison Commissioners with the approval of the Secretary of State and shall apply to such classes of prison officers as may be stated in the code.” [1330]

5. Rule 165 of the said Rules (which provides that a male prisoner sentenced to imprisonment with hard labour shall, if over 16 and under 60 years of age, not be allowed a mattress during the first fourteen days of his sentence unless the medical officer otherwise orders) shall be revoked. [1331]

* * * * *

PUBLIC ASSISTANCE

ORDERS, CIRCULARS AND MEMORANDA :—

Public Assistance (Amendment) Order, 1945 - - - - - PAGE 410

ORDERS, CIRCULARS AND MEMORANDA

THE PUBLIC ASSISTANCE (AMENDMENT) ORDER, 1945

S. R. & O., 1945, No. 113

January 29, 1945

103995.

Whereas by article 92 of the Public Assistance Order, 1930, certain provision is made with regard to the boarding-out of children ;

And whereas it is expedient that the said article should be revoked :

Now therefore the Minister of Health in exercise of his powers under the Poor Law Act, 1930, and of all other powers enabling him in that behalf, hereby makes the following order :—

1. This order may be cited as the Public Assistance (Amendment) Order, 1945. [1332]

2. Article 92 of the Public Assistance Order, 1930, is hereby revoked. [1333]

* * * * *

PUBLIC HEALTH

CASES :—

McVittie v. Bolton Corpn., [1945] 1 All E. R. 379 - - - - - PAGE 411

CASES

Public Health—Dangerous and dilapidated structure—Seriously detrimental to the amenities of the neighbourhood—Order to repair or demolish—Failure by owner to comply with order—Demolition carried out by local authority—Whether “rubbish resulting from the demolition” included machinery on the premises—Public Health Act, 1936 (c. 49), s. 58.

A cinema owned by the appellant was damaged by fire, with the result that it became a dangerous or dilapidated building or structure. On the adjoining land a machine shop also belonging to the appellant was damaged as well. A complaint was made by the respondents, the local authority, to the justices, who made an order under the Public Health Act, 1936, s. 58, calling upon the appellant to execute works of repair or restoration, or, if he so elected, to take such steps by demolishing the structure and removing any rubbish resulting from the demolition as might be necessary for remedying the cause of complaint. The order, however, referred only to the cinema premises. The appellants having failed to comply with the order, the respondents cleared both the sites and, in doing so, removed certain machinery from the premises on the ground that they were “rubbish resulting from the demolition.” In an action by the appellant for trespass to his land and goods, the respondents admitted trespass to land and goods in respect of the site occupied by the machine shop. With regard to the cinema premises, it was contended for the appellant (i) that the respondents were not entitled under the section to dig below the ground level, but that they did so and extracted certain pieces of machinery, thereby committing trespass to the appellant's land ; (ii) that the machinery so taken away was not “rubbish” within the meaning of the section ; (iii) that the section gave the respondents no power to take any chattels off the site :—

Held : (i) the power to demolish a building necessarily extended to the whole of it and, therefore, to its basement.

(ii) (Scott, L.J., *dissenting*) : on a true construction of s. 58, “rubbish resulting from demolition” did not include machines.

(iii) the section conferred no power to remove chattels unless they came within the description of “rubbish resulting from the demolition.” The respondents, therefore, were also liable in damages to the appellant for the removal of machinery from the site covered by the order.—*McVITTIE v. BOLTON CORPN.*, [1945] K. B. 281 ; [1945] 1 All E. R. 379 ; 114 L. J. K. B. 177 ; 172 L. T. 263 ; 109 J. P. 97 ; 61 T. L. R. 267 ; 43 L. G. R. 53, C.A. [1334]

PUBLIC SERVICE VEHICLES

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	Emergency Powers (Defence) Road Vehicles and Drivers (No. 2) Order, 1945 — — —	PAGE
Emergency Powers (Defence) Road Vehicles and Drivers Order, 1945	412	Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 2) Order, 1945 — — —	414
Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1945 — — —	412		415

ORDERS, CIRCULARS AND MEMORANDA

THE EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS ORDER, 1945

S. R. & O., 1945, No. 149

February 8, 1945

The Minister of War Transport (hereinafter called “the Minister”) in exercise of the powers conferred on him by Regulation 72 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, hereby orders and directs as follows :—

1. In any proceedings which may be taken in respect of the use of a public service vehicle on any occasion in contravention of section 67 of the Road Traffic Act, 1930 (which provides, *inter alia*, that no person shall cause or permit a motor vehicle to be used on a road as a contract carriage unless he is the holder of a public service vehicle licence) it shall be a defence to prove that the vehicle was on that occasion being used under the authority of this Order. [1335]

2. This Order shall be the authority of the Minister :—

- (a) for the purposes of paragraph (2) of the said Regulation 72, for the use of public service vehicles in connection with the carrying of workmen engaged in the repair of bomb-damaged buildings to or from the site of such buildings ; and
- (b) for the purposes of paragraph (1) of the said Regulation 72 in relation to proceedings taken by virtue of section 77 of the Road Traffic Act, 1930, in respect of the driving of a public service vehicle by a person not licensed for the purpose, for the driving of such a vehicle by such a person in connection with the carrying of workmen engaged in the repair of bomb-damaged buildings to or from the site of such buildings. [1336]

3. This Order shall come into force on the ninth day of February, 1945, and may be cited as “The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1945”. [1337]

* * * * *

THE EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS (AMENDMENT) ORDER, 1945

S. R. & O., 1945, No. 193

February 17, 1945

In exercise of the powers conferred on him by Regulation 72 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf the Minister of War Transport hereby makes the following Order :—

1. The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1943, shall have effect as though the following paragraphs were substituted for paragraphs 12, 13 (as amended by the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1944, and 14 thereof :—

“ 12.—(1) A Commissioner may issue in respect of any goods vehicle a permit (hereinafter referred to as “ a defence permit ”) and the vehicle may, subject to the conditions hereinafter mentioned and to any further conditions that the Commissioner may think fit to attach, be used on a road by the holder of the defence permit for the carriage of goods :—

- (a) in the case of a defence permit overprinted with the letter “ A ” (hereinafter called “ an A defence permit ”), as though the permit were an A carrier’s licence ;
- (b) in the case of a defence permit overprinted with the word “ Contract ” (hereinafter called “ an A contract defence permit ”), as though the permit were a carrier’s licence issued under the provisions of sub-section (1) of section 7 of the Road and Rail Traffic Act, 1933 ;
- (c) in the case of a defence permit overprinted with the letter “ B ” (hereinafter called “ a B defence permit ”), as though the permit were a B carrier’s licence ; and
- (d) in the case of a defence permit overprinted with the letter “ C ” (hereinafter called “ a C defence permit ”), as though the permit were a C carrier’s licence.

(2) It shall be a condition of every defence permit that :—

- (a) the provisions of sub-sections (1) and (4) of section 16 of the Road and Rail Traffic Act, 1933, and the Regulations made thereunder shall be complied with as though such defence permit were a carrier’s licence ;
- (b) a Commissioner shall have as regards a defence permit the like powers to dispense with the requirements of such Regulations as the licensing authority has as regards a licence under sub-section (3) of the said section 16 ; and
- (c) it shall be affixed in the manner prescribed for an identity certificate by the Goods Vehicles (Licences and Prohibitions) Regulations, 1936.

(3) The period of validity of defence permit shall be, in the case of A defence permits, A contract defence permits and B defence permits, one year, and in the case of C defence permits five years.

Provided that a Commissioner may :—

- (a) in his discretion issue a defence permit for any specified period not exceeding six months ; and
- (b) if for administrative reasons he deems it desirable, issue a defence permit for any specified period shorter than the full period.

(4) A Commissioner may, in any case where during the validity of an identity certificate or a defence permit a vehicle is substituted for the vehicle therein identified, issue a defence permit in respect of the substituted vehicle valid for the remainder of the validity of the original certificate or permit, and the Commissioner may require as a condition of such issue the return of the original certificate or permit.

13. Notwithstanding any conditions attached to a licence, defence permit or other equivalent authorisation the holder thereof may use the vehicle for the carriage of goods for hire or reward.

- (a) in accordance with the terms of a written authority of the Commissioner, who may at any time suspend or revoke such authority ;
- (b) under the authority of a consignment note issued on the Minister's Form RH/M/2C by an Area Road Haulage Officer or a Unit Controller appointed by the Minister.

14. So long as the relevant identity certificate in force on the 31st July, 1944, is displayed on the vehicle in accordance with the provisions of Regulation 12 of the Goods Vehicles (Licences and Prohibitions) Regulations 1936, the person to whom it was issued is hereby authorised to use for one year after the date of expiry of that certificate the vehicle specified therein subject to the conditions specified in section 8 of the Road and Rail Traffic Act, 1933, and the conditions attached to the licence to which the certificate was originally related or such conditions as the Commissioner may from time to time impose : Provided that a Commissioner may at any time revoke or suspend such authority." [1338]

2. Nothing in this Order shall invalidate any defence permit or other equivalent authorisation issued before the date when this Order comes into force, but every such permit and authorisation shall from that date be subject to the provisions of the Emergency Powers (Defence) Road Vehicles and Drivers Order, 1943, as amended by this Order. [1339]

3. The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1944, shall have effect as though the number "13" were deleted from sub-paragraph (2) of paragraph 1 thereof. [1340]

4. This Order shall come into force on the 31st day of March, 1945. [1341]

* * * * *

EXPLANATORY NOTE

The effect of this Order is to provide that, in future, A, A contract and C (as well as B) defence permits shall have the same significance respectively as the equivalent carrier's licences.

The Order also withdraws the general authority by which vehicles operated under :—

- (a) *A licences or equivalent authorisations might be used for the purposes of any trade or business ;*
- (b) *A contract licences or equivalent authorisations might be used otherwise than in connection with a particular contract ; and*
- (c) *C licences or equivalent authorisations might be used for the carriage of goods for hire or reward ;*

but provision is made to enable Regional Transport Commissioners specially to authorise the use of any particular vehicle for the carriage of goods for hire or reward and to enable operators to use any vehicle to carry goods for hire or reward on a consignment note issued on behalf of the Minister.

THE EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS (NO. 2) ORDER, 1945

S. R. & O., 1945, No. 723

June 14, 1945

The Minister of War Transport (hereinafter called "the Minister") in exercise of the powers conferred on him by Regulation 72 of the Defence

(General) Regulations, 1939, and of all other powers enabling him in that behalf, hereby orders and directs as follows :—

1. In any proceedings which may be taken in respect of the use of a public service vehicle on any occasion in contravention of section 67 of the Road Traffic Act, 1930 (which provides, *inter alia*, that no person shall cause or permit a motor vehicle to be used on a road as a contract carriage unless he is the holder of a public service vehicle licence) it shall be a defence to prove that the vehicle was on that occasion being used under the authority of this Order. [1342]

2. This Order shall be the authority of the Minister :—

- (a) for the purposes of paragraph (2) of the said Regulation 72, for the use of public service vehicles in connection with the carrying of prisoners of war to or from the site of work on which they are engaged ; and
- (b) for the purposes of paragraph (1) of the said Regulation 72 in relation to proceedings taken by virtue of section 77 of the Road Traffic Act, 1930, in respect of the driving of a public service vehicle by a person not licensed for the purpose, for the driving of such a vehicle by such a person in connection with the carrying of prisoners of war to or from the site of work on which they are engaged. [1343]

3. This Order shall come into force on the 18th day of June, 1945, and may be cited as "The Emergency Powers (Defence) Road Vehicles and Drivers (No. 2) Order, 1945". [1344]

* * * * *

THE EMERGENCY POWERS (DEFENCE) ROAD VEHICLES AND DRIVERS (AMENDMENT) (NO. 2) ORDER, 1945

S. R. & O., 1945, No. 904

July 24, 1945

The Minister of War Transport, in exercise of the powers conferred upon him by Regulation 72 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The Emergency Powers (Defence) Road Vehicles and Drivers Order, 1943, as amended by the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1944, and the Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) Order, 1945, shall have effect as though :—

- (1) the date "31st July, 1945," and the date "31st July, 1946," were respectively substituted for the date "31st July, 1944," and the date "31st July, 1945," wherever either of them occur in paragraphs 2, 8, 14 and 15 thereof :
- (2) the following sub-paragraph were added to paragraph 13 thereof :—
" (c) until the 30th November, 1945, for any purpose in connection with harvesting work ; " and
- (3) the following paragraph were inserted immediately after paragraph 16 thereof :—

" 16A. A Commissioner may, by notice served upon the holder of a 'B' defence permit, vary the conditions attached to that permit in such manner as he thinks fit." [1845]

2. This Order shall come into force on the 31st day of July, 1945, and may be cited as "The Emergency Powers (Defence) Road Vehicles and Drivers (Amendment) (No. 2) Order, 1945." [1346]

* * * * *

Note as to S. R. & O., 1945, No. 904.—*This Order extends for 12 months from the date when it would otherwise have expired any authority in force on 31st July, 1944, to :—*

- (i) *act as driver or conductor of a public service vehicle ;*
- (ii) *act as driver or conductor of a tram, trolley vehicle or hackney carriage in the Metropolitan Police District ;*
- (iii) *use a public service vehicle ;*
- (iv) *operate a road passenger service under a permit ;*
- (v) *use a goods vehicle under A, B, or C carriers' licence or permit.*

This extension does not operate in respect of a road service licence, the holder of which, if he wishes to continue the service, must before the expiry of the licence obtain a permit under paragraph 5 of the Principal Order of 1943.

Paragraph 1 (2) of the Order provides that any goods vehicle, notwithstanding any conditions attached to its licence or permit, may be used in connection with this year's harvest.

Paragraph 1 (3) enables Regional Transport Commissioners to vary the conditions attached to a 'B' defence permit without the necessity for either endorsing the existing permit, or cancelling the existing permit and issuing a new one.

RATES AND RATING

CASES :—

CASES :—	PAGE	PAGE
Upper Agbrigg Assessment Committee v. Gartside's (Brookside Brewery), Ltd. & Bents Brewery Co., Ltd., [1945] 1 All E. R. 338, C. A. — — — — —	416	ment Committee and Norfolk County Valuation Committee, [1946] 1 All E. R. 4 — — 417
Pratt v. North-West Norfolk Assessment Committee, <i>Ex parte</i> Allen Newport Ltd., [1945] 2 All E. R. 371 — —		418

CASES

Rates and Rating—Valuation list—Proposed amendment to valuation list—Notice of proposal served on owner of premises and also on occupier of premises—Attendance of owner at hearing before the assessment committee—Whether owner had locus standi in the matter—Appeal to quarter sessions by owner from the committee's decision—Whether quarter sessions had jurisdiction to entertain appeal—Rating and Valuation Act, 1925 (c. 90), s. 37 (1), (2), (3), (4), (5), (7), (8).

The appellant rating authority made a proposal under the Rating and Valuation Act, 1925, s. 37, for an amendment of the current valuation list for a certain area in respect of a hereditament, a licensed house, owned but not occupied by one of the respondents, Bents Brewery Co. The appellant rating authority served a notice of the proposal upon the occupier in accordance with s. 37 (3), and also a notice upon the respondent brewery company ; but in the latter case the notice was addressed to Bents Brewery Co., care of Gartside's, Ltd., a subsidiary of Bents Brewery Co. The document described one Jenkinson as "the occupier" and Bents Brewery Co., as "the owners" and contained the warning that notice of objection was required before objections to the proposal could be heard. The respondents, Bents and Gartside's companies, acting upon the notice, duly appeared, without there being any objection to their *locus standi*, at a hearing before the appellant assessment committee who decided the matter against them. From that decision the respondents appealed to quarter sessions ; the appellants objected on the ground that the respondents had no right of appeal under the section inasmuch as they ought never to have been served with notice of the proposal and, therefore, there was no jurisdiction of quarter sessions to entertain the appeal and determine the proposal. Quarter sessions held that they had no jurisdiction. On a further appeal by way of case stated, the Divisional

Court took the view that under s. 37 (8) the owners in this particular case had been lawfully brought before the assessment committee as being persons aggrieved by the committee's decision and accordingly reversed the decision of quarter sessions. The rating authority appealed :—

Held : on a true construction of the Rating and Valuation Act, 1925, s. 37 (3), the person to whom the notice of the proposal should have been transmitted was the occupier, and not the owner, of the premises. S. 37 did not confer any right to appear on a person who had wrongly received a notice and, that being so, he could gain no assistance from the earlier sections of the Act, because those sections could not be imported into s. 37 in such a way as to increase the range of persons entitled to take part in the proceedings. Quarter sessions had, therefore, no jurisdiction to hear the appeal.

Decision of the Divisional Court ([1944] 2 All E. R. 37) *reversed* and *decision of the Court of Quarter Sessions restored*.—UPPER AGRIBIGG ASSESSMENT COMMITTEE v. BENTS BREWERY CO., LTD., [1945] K. B. 196 ; [1945] 1 All E. R. 338 ; 114 L. J. (K. B.) 257 ; 172 L. T. 166 ; 61 T. L. R. 253 ; *sub nom.* BENTS BREWERY CO., LTD. v. UPPER AGRIBIGG ASSESSMENT COMMITTEE, [1945] 109 J. P. 84, C. A. [147]

Rates and Rating—Valuation list—Proposals by county valuation committee to increase large proportion of assessments in area—Systematic examination of all assessments in rating area by county valuation officer with a view to revaluation—Separate proposals in respect of each hereditament—Whether valuation committee making in effect new valuation list—Jurisdiction of quarter sessions on appeal—Quarter Sessions Act, 1849 (c. 45), s. 11—Rating and Valuation Act, 1925 (c. 90), ss. 18, 19, 21 (2), 31 (1), 37—Rating and Valuation (Postponement of Valuations) Act, 1938 (c. 19), s. 1—Rating and Valuation (Postponement of Valuations) Act, 1940 (c. 12), s. 1 (3).

On August 17, 1942, the appellant county valuation committee made a proposal to amend the current valuation list, which had come into force on April 1, 1934, by raising the gross value of the respondent's hereditament from £14 to £20, and the rateable value from £8 to £12. On December 8, 1942, the respondent made his objection in writing to the proposal, and on December 18, 1942, the assessment committee disallowed the objection and determined to raise the gross value and the rateable value by the proposed amounts. On January 5, 1943, the respondent gave notice of appeal to quarter sessions. By consent of the parties a special case was stated for the opinion of the High Court, the parties agreeing that judgment in conformity with the court's decision should afterwards be entered at quarter sessions. The facts showed, *inter alia*, that in December, 1940, the county valuation committee, being of opinion that the general level of the existing assessments in the rating area was too low, made proposals to increase the assessments of a great number of houses. The assessment committee, on November 14, 1941, approved the proposals and between November, 1941, and December, 1942, the valuation committee made proposals relating to some 577 hereditaments. The assessments of nearly all these hereditaments were increased by the assessment committee. In addition to these proposals the acting county valuation officer undertook a systematic examination of all the assessments in the rating area, large and small alike, and a further 618 hereditaments were inspected by him on behalf of the valuation committee with a view to revaluing all the hereditaments. In making the proposals to increase the gross and the rateable values of the hereditaments, including that of the respondent, the valuation committee acted under the Rating and Valuation Act, 1925, s. 37, whereby any person, including the valuation committee, aggrieved by the incorrectness or unfairness of any matter in the valuation list for the time being in force might make a "proposal" for the amendment of the list. It was held by the High Court (i) that the

essential complaint to quarter sessions being that the proposed increases were bad in law and not binding on the respondents, quarter sessions were not debarred from entertaining it, as had been contended, and that the High Court therefore had jurisdiction to determine the appeal, and (ii) that the method by which it was sought to avoid the difficulties caused by the postponement, by the Rating and Valuation (Postponement of Valuations) Acts, 1938 and 1940, of the preparation of a new valuation list for the area could have no sanction in law since it was impossible to say that all that had been done was the routine work of amendment or correction or the seeking of mere uniformity. An attempt had been made to do with the aid of s. 37 that which could only be done by the rating authority under the powers contained in s. 19. The proposal appealed against was, therefore, not a valid and legal proposal.

On appeal to the Court of Appeal the principal question for determination was whether the respondent's assessment was invalid on the ground that it was part of an operation amounting in substance to the making of a new valuation list contrary to the provisions of the Rating and Valuation (Postponement of Valuations) Acts, 1938 and 1940 :—

Held : (i) the proposal of the county valuation committee and its acceptance by the assessment committee and the consequent amendment of the 1934 valuation list were within the powers conferred upon those bodies by the Rating and Valuation Act, 1925, s. 37.

(ii) even assuming that the county valuation committee was in fact engaged in an operation resulting in an alteration of all the assessments, such operation, if carried out within the powers conferred by the Rating and Valuation Act, 1925, s. 37, was lawful; the consequential entries in the valuation list were still amendments of the existing law and did not amount, in effect, to the making of a new list.

(iii) the assessment made upon the respondent was, therefore, valid and must stand.

Decision of the Divisional Court ([1945] 2 All E. R. 78] *reversed*.—*PRATT v. NORTH-WEST NORFOLK ASSESSMENT COMMITTEE AND NORFOLK COUNTY VALUATION COMMITTEE*, [1945] 2 All E. R. 78; 114 L. J. (K. B.) 321; 109 J. P. 182; 61 T. L. R. 404; 43 L. G. R. 104, D. C.; *reversed*, [1946] K. B. 93; [1946] 1 All E. R. 4; 174 L. T. 3; 110 J. P. 106; 62 T. L. R. 86; 89 Sol. Jo. 590; 44 L. G. R. 33, C. A. [1948]

Rates and Rating—Valuation list—Industrial property not previously rated—“Proposal” for gross assessment agreed between owners and the rating authority—Assessment committee fixing valuation in excess of “proposal” in the absence of owners—Proceedings of assessment irregular—Application for order of certiorari—Committee bound to act judicially—Rating and Valuation Act, 1925 (c. 90), ss. 27, 37.

The owners of a ballast pit, which had not been previously rated, were served with a notice by the rating and valuation officer that the rating authority were proposing to insert the figure of £2,500 in their valuation list as the annual value of the property. They consented to this proposal subject to the property being de-rated as an industrial hereditament. They were informed that it would not be necessary for them to be present at the meeting of the assessment committee. At that meeting the county valuation officer objected to the figure proposed by the rating authority, and, after deliberating the assessment committee decided to increase the figure to £4,500. The owners applied for an order of *certiorari* on the ground that the decision of the assessment committee was invalid :—

Held : the proceedings at the meeting of the assessment committee were irregular; when the county valuation officer objected to the proposal of the

rating authority, the meeting should have been adjourned in order that the owners might be given an opportunity of being present and heard. The owners were entitled, therefore, to an order of *certiorari* to quash the decision of the committee.—*R. v. NEWMARKET ASSESSMENT COMMITTEE, Ex parte ALLEN NEWPORT, LTD.*, [1945] 2 All E. R. 371; 173 L. T. 179; 109 J. P. 234; 89 Sol. Jo. 447; 43 L. G. R. 175, D. C. [1349]

REGISTRATION OF ELECTORS

See ELECTIONS

ROAD TRAFFIC

STATUTES :—	PAGE		PAGE
Road Transport Lighting (Cycles) Act, 1945	419	Special Types) Order, 1945	421
		Motor Vehicles (Restriction of Use) (Revocation) Order, 1945	422
ORDERS, CIRCULARS AND MEMORANDA :—		Emergency Powers (Defence) Built-Up Areas (Revocation) Order, 1945	422
Motor Vehicles (Authorisation of			

STATUTES

THE ROAD TRANSPORT LIGHTING (CYCLES) ACT, 1945

(8 & 9 Geo. 6, c. 8)

PRELIMINARY NOTE

Before the war the rear lighting of cycles was covered by s. 5 of the Road Transport Lighting Act, 1927, which enacted that no red rear light need be carried on a cycle which had an unobscured and efficient red reflector attached to it; and by s. 19 of the Road Traffic Act, 1934, and Regulations made thereunder, by which a white surface was to be displayed together with any reflector. The Regulations as to reflectors and white surfaces, which are still in force, are contained in the Road Vehicles Lighting Regulations, 1936. These are likely to be replaced by new Regulations made under the 1945 Act, but the provisions will, it is expected, be substantially the same as those made in 1936.

The pre-war position, therefore, was that a cyclist could please himself whether he carried (a) a red rear light or (b) a red reflector and white patch.

Red rear lamps were first made compulsory during the war, owing principally to the new dangers created by the black-out and the masking of head lamps. The original provision was made by Article 13 of the Lighting (Restrictions) Order, 1940 (S. R. & O., 1940, No. 74), which was eventually replaced by Article 25 of the Lighting (Restrictions) Order, 1944 (S. R. & O., 1944, No. 390). Both Orders were made under Regulation 24 of the Defence (General) Regulations, 1939, and both have now been revoked.

The object of the present Act, which received the Royal Assent on March 7, 1945, is to compel cyclists to carry red rear lamps, together with red reflectors and white surfaces, thus bringing cycles into line with other road-using vehicles. The Act encountered some opposition on its passage through Parliament, the principal argument against it being that the carrying of red lamps by cyclists would make motorists drive less carefully.

The Act, as stated by the Parliamentary Secretary to the Ministry of War Transport (Mr. Noel Baker) (407 H. of C. Official Report 1654) is based on recommendations contained in the Report of the Select Committee on the Prevention of Road Accidents of the House of Lords (Session 1938-9). That Committee heard evidence from numerous bodies and individuals, including the Cyclists Touring Club, the

National Cyclists Union, and the British Cycle and Motor-Cycle Manufacturers and Traders Union, Limited, the witness for the last-named being also the chairman of the National Committee on Cycling. The relevant recommendations of the Select Committee were endorsed by the Committee on Road Safety.

The provision as to the carrying of lamps (s. 1) comes into operation at once, though there is a temporary provision which permits red lights to be extinguished while the bicycle or tricycle is stationary, provided that it is drawn in as near to the side of the road as possible (s. 3). Red reflectors and white surfaces will become compulsory for all cycles at a date to be fixed by the Minister of War Transport. [1850]

An Act to make obligatory the carrying by bicycles and tricycles not propelled by mechanical power of rear lamps, red reflectors and white surfaces during the hours of darkness, and to relax temporarily, as respects such vehicles when stationary owing to the exigencies of the traffic or in order to comply with any traffic signal or direction, the obligation to show lights.

[7th March, 1945.]

1. Cesser of exemption, in case of pedal cycles, from obligation to carry rear lamps.—Paragraph (b) of section five of the Road Transport Lighting Act, 1927 (which exempts bicycles and tricycles not propelled by mechanical power from the obligation imposed by that Act to carry lamps showing red lights to the rear if there are attached thereto unobscured and efficient red reflectors), and, in subsection (1) of section nineteen of the Road Traffic Act, 1934 (which empowers the Minister of War Transport to provide by regulations, in the case of bicycles not propelled by mechanical power and other vehicles to or on which red reflectors are attached or carried, that the provisions of the said Act of 1927 which exempt any such vehicles from the obligation to show a red light to the rear shall not have effect unless there is also exhibited on the vehicle a white surface in accordance with the regulations), the words “bicycles not propelled by mechanical power and other”, are hereby repealed. [1351]

Road Transport Lighting Act, 1927, s. 5 (b).—The repealed paragraph ran as follows:—

“(b) in the case of bicycles and tricycles not propelled by mechanical power, it shall not be necessary to carry a lamp showing a red light to the rear if the bicycle or tricycle has attached thereto an unobscured and efficient red reflector”.

Road Traffic Act, 1934, s. 19 (1).—The subsection, before amendment, ran as follows:—

“(1) The Minister may by regulations provide, in the case of *bicycles not propelled by mechanical power and other* vehicles to or on which red reflectors are attached or carried, that the provisions of the Road Transport Lighting Act, 1927, which exempt any such vehicles from the obligation to show a red light to the rear shall not have effect unless there is also exhibited on the vehicle a white surface in accordance with the regulations”.

Regulations.—The regulations governing the use of reflectors and white surfaces are Regulations 15 and 16 of the Road Vehicles Lighting Regulations, 1936.

2. Pedal cycles to carry red reflectors and exhibit white surfaces.—(1) At the end of the said section five there shall be added the following subsection:—

“(2) Every bicycle and tricycle not propelled by mechanical power shall, while on any road during the hours of darkness as defined by subsection (4) of section one of this Act,—

(a) carry attached thereto an unobscured and efficient red reflector ;
and

(b) exhibit thereon a white surface in accordance with regulations made by the Minister,

and it shall be the duty of any person who causes or permits any such bicycle or tricycle as aforesaid to be on any road during the hours of darkness as defined as aforesaid to provide the bicycle or tricycle with a red reflector and white surface in accordance with the requirements of this subsection and of any regulations made under this Act.” [1352]

(2) At the end of the proviso to section ten of the Road Transport Lighting Act, 1927 (which provides that a person driving or being in charge

of a vehicle who is charged with an offence under that Act shall not be convicted if he proves that the offence arose through the negligence or default of some other person whose duty it was to provide the vehicle with a lamp or lamps), there shall be added the words "or, in the case of a bicycle or tricycle not propelled by mechanical power, a red reflector or a white surface". [1353]

(3) This section shall come into operation on such day as the Minister of War Transport may by order appoint, and different days may be appointed as respects the provisions thereof relating to red reflectors and as respects the provisions thereof relating to white surfaces. [1354]

Hours of darkness.—The definition referred to is :—

"(4) In this section 'the hours of darkness' means—

(a) as respects the period of summer time, the time between one hour after sunset and one hour before sunrise; and

(b) as respects the remainder of the year, the time between half an hour after sunset and half-an-hour before sunrise".

Object of sub-s. (3).—The object of this subsection is to allow the Minister to postpone the coming into operation of the section until good supplies of accessories are available.

3. Temporary relaxation, in case of pedal cycles stationary owing to traffic, of obligation to show lights.—Notwithstanding anything in the Road Transport Lighting Act, 1927, or in section one of this Act, until such day as the Minister of War Transport may by order appoint, it shall not be necessary for a bicycle or tricycle not propelled by mechanical power to show the lights required by the said Act of 1927, as amended by this Act, to be shown, if the bicycle or tricycle is stationary owing to the exigencies of the traffic or in order to comply with any traffic signal or direction :

Provided that this section shall not have effect unless the bicycle or tricycle is as near as possible to the near or left-hand edge of the carriage-way. [1355]

Object of the section.—The reason for this section, which provides that, until the day appointed by the Minister, no rear light need be shown if the vehicle is stationary in the road provided that it is drawn in as near to the near-side edge as possible, is that many wartime dynamo lighting sets have no batteries which keep the light burning when the cycle is at a standstill. New fittings will eventually be made, and it will become compulsory to have them : but in the meantime this temporary relaxation is allowed until such time as suitable accessories are available to cyclists.

4. Short title, citation and extent.—(1) This Act may be cited as the Road Transport Lighting (Cycles) Act, 1945, and the Road Transport Lighting Act, 1927, and this Act may be cited together as the Road Transport Lighting Acts, 1927 and 1945. [1356]

(2) This Act shall not extend to Northern Ireland. [1357]

ORDERS, CIRCULARS AND MEMORANDA

THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) ORDER, 1945

S. R. & O., 1945, No. 459

April 28, 1945

Whereas by section 3 of the Road Traffic Act, 1930, the Minister of Transport may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials :

And whereas by virtue of the Ministers of the Crown (Minister of War Transport) Order, 1941, the said powers are now vested in the Minister of War Transport (hereinafter referred to as "the Minister") :

Now, therefore, the Minister in exercise of the powers so conferred upon

him and of all other powers enabling him in that behalf hereby makes the following Order :—

1. This Order may be cited as “The Motor Vehicles (Authorisation of Special Types) Order, 1945”. [1358]

2. The Minister authorises the use on roads of the vehicles specified in the Schedule hereto notwithstanding that such vehicles do not comply with the requirements of Regulations 6, 32, 64 and 66 of the Motor Vehicles (Construction and Use) Regulations, 1941, subject to the condition that such vehicles shall be operated only by or on behalf of the Ministry of Works. [1359]

3. Nothing in this Order shall be taken to deprive any highway authority or other person of any right to recover any extraordinary expenses which may be incurred in respect of any road by reason of such user as aforesaid. [1360]

4. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [1361]

SCHEDULE

30 vehicles known as MACK-TRUCK TIPPERS the index marks and registration numbers of which are GXY 667 to GXY 690 inclusive and GYH 240 to GYH 245 inclusive. [1362]

* * * * *

THE MOTOR VEHICLES (RESTRICTION OF USE) (REVOCATION) ORDER, 1945

S. R. & O., 1945, No. 662

June 4, 1945

The Minister of War Transport in exercise of the powers conferred upon him by Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1. The Motor Vehicles (Restriction of Use) Order, 1942, and The Motor Vehicles (Restriction of Use) (No. 2) Order, 1942, (which respectively restrict the driving on highways of motor vehicles using fuels other than petrol and certain other oils and prohibit the use of tyres exposing the canvas or similar fabric) shall be revoked. [1363]

2. This Order shall come into force on the 4th day of June, 1945, and may be cited as “The Motor Vehicles (Restriction of Use) (Revocation) Order, 1945”. [1364]

* * * * *

THE EMERGENCY POWERS (DEFENCE) BUILT-UP AREAS (REVOCATION) ORDER, 1945

S. R. & O., 1945, No. 1167

September 19, 1945

The Minister of War Transport, in exercise of the powers conferred upon him by Regulation 70 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, hereby orders as follows :—

1. The Emergency Powers (Defence) Built-Up Areas Order, 1940 (which provides that during the hours of darkness vehicles shall not be driven on a road on which the speed of vehicles is restricted to 30 miles per hour by virtue of section 1 of the Road Traffic Act, 1934, at a speed exceeding 20 miles per hour) is hereby revoked. [1365]

2. This Order shall come into force on the twenty-sixth day of September, 1945, and may be cited as "The Emergency Powers (Defence) Built-Up Areas (Revocation) Order, 1945". [1366]

* * * * *

SECONDARY EDUCATION

See SPECIAL EDUCATION VOLUME

STATUTES AND STATUTORY RULES AND ORDERS

STATUTES :—

Statutory Orders (Special Procedure) Act, 1945

PAGE

— 423

STATUTES

THE STATUTORY ORDERS (SPECIAL PROCEDURE) ACT, 1945

(9 & 10 Geo. 6, c. 18)

PRELIMINARY NOTE

This Act introduces a new legislative process which is designed to facilitate the conferring of statutory powers during the reconstruction period. It applies in cases where, apart from the Act, the procedure would have been by way of Provisional Order Confirmation Bill, and it seeks to avoid the delays inherent in the latter procedure. It does not effect any repeals or alterations, except in regard to four recent Acts, to which the new procedure is applied in lieu of Provisional Order procedure. The procedure by way of provisional order originated 100 years ago in a desire to improve on the older Private Bill system as a means of conferring special powers on local undertakings. The first example occurred in the Inclosure Act, 1845, which conferred power on the Inclosure Commissioners to make orders which were "provisional only and requiring confirmation by Parliament." Throughout the last century and the early part of the present century increasing use was made of this procedure. The modern procedure is prescribed by s. 285 of the Local Government Act, 1933, which applies in all cases where a Minister is authorised to make a provisional order under that Act or under any subsequent enactment.

Among the objects of the Provisional Order procedure were the granting of powers required by local authorities and undertakings dealing with gas, water, electricity, markets and public health. The expansion of the services mentioned, and others, during the present century has made it necessary to supplement the Provisional Order Procedure. In the first place, Ministers were enabled to make certain types of Orders without the need for Parliamentary confirmation, e.g., orders for the compulsory purchase of land. In the second place, Ministers were empowered to make orders which required affirmative resolutions of both Houses of Parliament before becoming effective. In the third place, under modern legislation, Ministers are often given power to make orders which come into force forthwith, but which may be subsequently annulled by resolution of either House.

The objection to Provisional Order Procedure is the delay and expense which are involved. An unopposed order might be confirmed in a month, but four months is the usual time, and the average time taken when an order is opposed is about 8 months. Moreover, under Standing Orders of both Houses, no Provisional Order Confirmation Bill may be read a first time after May 15 (Standing Orders, House of Lords 182 ; House of Commons, 216).

The objections to procedure by orders requiring affirmative resolutions of both Houses are (i) that only local interests are usually involved, and these do not require debate before the full Houses; (ii) matters of detail, perhaps requiring maps, witnesses, etc., cannot be gone into; and (iii) no opportunity for amendment is provided.

The present Act endeavours to combine the best features of Provisional Order procedure and of procedure by orders requiring affirmative resolutions of both Houses. It will apply in any case where, by a subsequent Act, power to make or confirm orders is conferred on any authority subject to the provision that any such order is to be subject to special Parliamentary procedure (s. 1). It is also applied to provisional orders under the Town and Country Planning Act, 1944, the Local Government (Boundary Commission) Act, 1945, and the Water Act, 1945, and consequentially amends those Acts (s. 8 and Schedule II). It is also provided that if at any time an address is presented to His Majesty by both Houses of Parliament praying that the provisions of the Act may be applied to orders thereafter to be made under earlier Acts, His Majesty may by Order in Council make provision for that purpose, and consequential amendments may then be made to the Acts in question (s. 8 (3)).

Briefly, the new procedure is as follows: Before the order can be laid before Parliament any preliminary requirements prescribed by the Act conferring the power (called the empowering enactment) must be complied with, or, if there are no such requirements, the provisions of Schedule I to the Act, dealing with notices of the proposed order and local inquiries, must be observed. The Minister must then give at least 3 days' notice in the London Gazette of his intention to lay the order before Parliament, and on laying the order before Parliament, must certify that the preliminary requirements have been complied with, and that, if such is the case, he has dispensed with the holding of a local inquiry (s. 2).

Petitions may be presented against an order within 14 days of its being laid before Parliament. Such petitions are of two kinds, viz. "Petitions for amendment," which pray for particular amendments to be made in the order, and "Petitions of general objection," which contain a prayer against the order generally. Petitions presented stand referred to the Lord Chairman of Committees and the Chairman of Ways and Means, who, as soon as practicable after the expiration of 14 days, are to take them into consideration, and if satisfied that the provisions of the Act and of Standing Orders have been complied with and that a petition discloses a substantial ground of objection to the order certify that the petition is proper to be received and is a petition for amendment or a petition of general objection as the case may be. Where, in the opinion of the Chairmen, a petition presented as a petition for amendment involves amendments of the order which would constitute a negative of its main purpose, they must certify it as a petition of general objection, provided that if the petitioner satisfies them that some only of the amendments involved would constitute a negative of the main purpose of the order, they may direct the deletion therefrom of so much of the petition as requires such amendments and certify the remainder as a petition for amendment. With respect to every order, the Chairmen are to report whether any, and if so what, petitions have been presented and certified as proper to be received as petitions for amendment and petitions of general objection respectively (s. 3). Within 14 days after the Chairmen have reported (called the resolution period) either House may resolve that the order be annulled and it thereupon becomes void. On the consideration of a motion for annulment, however, if there is a petition of general objection certified as proper to be received, either House may, if of opinion that the question of annulment should not be determined until that objection has been further examined, order the petition to be referred to a joint committee of both Houses and in that case the order will not be annulled except in accordance with the provisions noted below. If during the resolution period no annulment resolution is passed (i) any duly certified petition for amendment stands referred to the joint committee; (ii) any duly certified petition of general objection will stand referred to the joint committee if either House so orders; (iii) if no petition stands referred to the joint committee the order comes into operation at the expiration of the resolution period, or on such later date as may be specified in the order.

The joint committee may report the order without amendment or with such amendments as they think expedient to give, either in whole or in part, to the

petition, and they may make consequential amendments. In the case of a petition of general objection referred to the committee they have similar powers, but may also report that the order be not approved (s. 5).

An order reported without amendment comes into force on the day the report is laid before Parliament or at such later date as may be specified in the order (s. 6 (1)). If an order is reported with amendments the Minister may (i) withdraw the order; or (ii) accept the amendments, in which case the order comes into operation on such date as the Minister may by notice determine (s. 6 (2)); or (iii) cause the order to be submitted in its amended form to Parliament for further consideration by means of a Bill for the confirmation thereof. The Bill in such a case is to be treated for all purposes as a public Bill except that after its presentation it is treated as having passed through all its stages up to and including the Committee stage in the House in which it is presented, and when passed by that House it is similarly treated by the other House (s. 6 (4)). Where the joint committee report that an order be not approved it does not take effect unless it is confirmed by Act of Parliament (s. 6 (3)), and a Bill presented for the purpose of confirming the order will set out the order as referred to the joint committee and is to be treated as a public Bill except that if a duly certified petition for amendment was not dealt with by the joint committee, the Bill, after being read a second time in the House where it is presented, is to stand referred to the committee for consideration of that petition and thereafter is considered in that House as if it had been reported from a committee in the ordinary way. After third reading in that House, it is, in the other House, to be deemed to have passed through all its stages up to and including the committee stage. Where no such petition as mentioned above exists, the Bill on presentation is deemed to have passed all its stages up to and including the committee stage in the House in which it is presented, and when it has been passed in that House, the like proceedings are taken in the other house (s. 6 (5)).

It will be seen that Parliament retains effective control of proceedings: it can accept or reject the joint committee's report.

The advantages claimed for this new procedure are as follows:

(i) It will effect a considerable saving of time over the Provisional Order procedure. An unopposed order could become operative within 28 days of its being laid before Parliament plus the time taken by the Chairmen in reporting as to petitions. Within the same period a resolution to annul can also be considered. Where an order is sent to the joint committee there is still a saving of time as compared with the Provisional Order procedure, since there is only one hearing before one committee and that committee is not concerned with general policy. Moreover, there is not the restriction under Provisional Order procedure of presenting the Bill before Whitsuntide.

(ii) The procedure is less expensive.

(iii) Adequate Parliamentary control is preserved; the House can deal with general policy matters in full session and the joint committee can safeguard private rights and interests. [1367]

Section	ARRANGEMENT OF SECTIONS	Page
1.	Application of Act to certain statutory orders made under future enactments.	426
2.	Preliminary proceedings	426
3.	Petitions	426
4.	Proceedings consequent upon report as to petitions	427
5.	Powers of joint committee on opposed orders	428
6.	Operation of orders	428
7.	Costs	429
8.	Application of Act to orders made under certain existing enactments	430
9.	Standing Orders for the purposes of this Act	431
10.	Application to orders extending to Scotland only	431
11.	Interpretation	433
12.	Short title, commencement and extent	434

SCHEDULES:

First Schedule.—Preliminary Proceedings	434
Second Schedule.—Enactments conferring power to make orders in the case of which special parliamentary procedure is substituted by this Act for provisional order procedure	435

An Act to regulate the procedure to be followed in connection with statutory orders required by any future enactment to be subject to special parliamentary procedure; to apply such procedure to orders made under certain existing enactments; and to enable such procedure to be applied to certain other orders.

[20th December, 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. Application of Act to certain statutory orders, made under future enactments.—(1) Where, by any Act passed after the passing of this Act, power to make or confirm orders is conferred on any authority, and provision is made requiring that any such order shall be subject to special parliamentary procedure, the provisions of this Act shall apply in relation to any order so made or confirmed. [1368]

(2) An order to which this Act applies shall be of no effect until it has been laid before Parliament by the Minister and has been brought into operation in accordance with the provisions of this Act. [1369]

Effect of section.—This section applies the new procedure to orders made under future enactments. It will thus be for Parliament to determine whether a particular type of order for which any future Bill provides is to be subject to this special procedure. See s. 8, *post*, as to the application of the Act to orders made under existing enactments. The procedure is experimental, and it is not intended that it shall be widely applied until some experience of its working has been gained (414 H. of C. Official Report 1378).

Definitions.—For definitions of "Minister," "order," see s. 11, *post*.

2. Preliminary proceedings.—(1) No order to which this Act applies shall be laid before Parliament until the requirements of the empowering enactment with respect to the publication or service of notices, the consideration of objections, and the holding of inquiries or other proceedings preliminary to the making or confirmation of the order have been complied with, or, where no such requirements are imposed by that enactment, until the requirements of the First Schedule to this Act have been complied with; and after any such requirements as aforesaid have been complied with, notice of the Minister's intention to lay the order before Parliament shall be published in the London Gazette not less than three days before the order is so laid. [1370]

(2) When any order to which this Act applies is laid before Parliament there shall, together with it, be laid before Parliament a certificate by the Minister specifying the requirements as to the matters aforesaid which relate to the order, and certifying that they have been complied with. Where a local inquiry has been dispensed with in accordance with any such requirements the said certificate shall include a statement to that effect. [1371]

(3) In this section the expression "empowering enactment," in relation to any order, includes any enactment other than this Act which has the effect of requiring the publication or service of notices, the consideration of objections or the holding of inquiries or other proceedings preliminary to the making or confirmation thereof. [1372]

Effect of section.—This section deals with the preliminary requirements which must be complied with before an order can be laid before Parliament. If no requirements are imposed by the empowering enactment (defined in sub-s. (3), *supra*), the requirements to be observed are those contained in the First Schedule to this Act, *post*.

Definitions.—For definitions of "Minister," "order," see s. 11, *post*.

3. Petitions.—(1) If, within the period of fourteen days beginning with the day on which an order to which this Act applies is laid before Parliament, or, if the order is so laid on different days, with the later of the two days, a petition is duly presented against the order, the petition shall stand referred for examination to the Lord Chairman of Committees and the Chairman of Ways and Means (hereinafter together referred to as "the Chairmen"). [1373]

(2) The following provisions shall have effect with respect to petitions against an order to which this Act applies :—

- (a) a petition praying for particular amendments to be made in the order shall specify the amendments asked for, and shall be known as a petition for amendment ;
- (b) a prayer against the order generally shall not be included in a petition for amendment, but may be contained in a separate petition which shall be known as a petition of general objection. [1374]

(3) As soon as practicable after the expiration of the said period of fourteen days, the Chairmen shall take into consideration all petitions referred to them under this section, and if the Chairmen are satisfied with respect to any such petition that the provisions of this Act and of Standing Orders have been complied with in respect thereof and that the petition discloses a substantial ground of objection to the order, they shall certify that the petition is proper to be received and is a petition for amendment or a petition of general objection as the case may be. [1375]

(4) Where in the opinion of the Chairmen a petition presented as a petition for amendment involves amendments of the order which would constitute a negative of the main purpose of the order, they shall if they certify that the petition is proper to be received, certify it as a petition of general objection provided that if the petitioner satisfies the Chairmen that some only of the amendments involved would constitute a negative of the main purpose of the order, the Chairmen may direct the deletion of so much of the petition as requires such amendments and certify the remainder thereof as a petition for amendment. [1376]

(5) In respect of every order to which this Act applies, the Chairmen shall report whether any petitions have been presented against it, and if so what petitions, if any, have been certified as proper to be received and as petitions for amendment and petitions of general objection respectively ; and subject to Standing Orders, every such report shall be laid before both Houses of Parliament. [1377]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of “Chairman of Ways and Means,” “Lord Chairman of Committees,” “order,” “Standing Orders,” see s. 11, *post*.

Sub-s. (1).—Petitions must be framed and presented in accordance with Standing Orders under s. 9, *post*.

Sub-s. (2).—A distinction is intended to be drawn between objections to an order which are based on broad grounds of policy and those which are based on individual interests. The former are taken by way of petition of general objection, which is normally decided on the floor of the House unless the House orders it to be referred to a joint committee of both Houses in accordance with s. 4 (1), *post*. The latter are taken by way of petition for amendment which is referred automatically to a joint committee (s. 4 (2), *post*).

4. Proceedings consequent upon report as to petitions.—(1) If either House, within the period of fourteen days beginning with the date on which the report of the Chairmen relating to any order to which this Act applies is laid before it, resolves that the order be annulled, the order shall thereupon become void and no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new order :

Provided that on the consideration of any motion for the annulment of an order under this subsection either House may, if a petition of general objection to the order has been certified as proper to be received, and the House is of opinion that the question of annulment ought not to be determined until that objection has been further examined, order that the petition be referred to a joint committee of both Houses in accordance with the provisions of this section, and in that case the order shall not be annulled except in accordance with the provisions of the two next following sections.

In reckoning the said period of fourteen days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [1378]

(2) If within the period mentioned in the foregoing subsection (hereinafter referred to as "the resolution period") no resolution that the order be annulled has been passed, then, subject as hereinafter provided, any petitions certified by the Chairmen as proper to be received shall stand referred to a joint committee of both Houses :

Provided that where any petition so certified has been certified as a petition of general objection, that petition shall not stand so referred unless either House has ordered as aforesaid that the petition be so referred. [1379]

(3) If during the resolution period neither House has resolved that the order be annulled, and no petitions relating to the order stand referred to the joint committee under this section, the order shall come into operation at the expiration of that period, or on such later date, if any, as may be specified in the order. [1380]

Effect of section.—See Preliminary Note, *ante*.

Chairmen.—These are the Lord Chairman of Committees and the Chairman of Ways and Means. See s. 3, *ante*, and s. 11, *post*.

Order.—For definition, see s. 11, *post*.

Sub-ss. (1) and (2).—See note to s. 3 (2), *ante*. The procedure of the joint committee is to be governed by Standing Orders (s. 9, *post*), but it is intended that the proceedings will be of a forensic character similar to those before private Bill committees, except that the issues before the joint committee will be those raised by the petitioners, and the policy of the order will not otherwise be in question. Normally, any question of general policy will be decided on the floor of the House.

5. Powers of joint committee on opposed orders.—(1) Where any petition against an order to which this Act applies is referred to a joint committee of both Houses under the last foregoing section, the order shall stand referred to that committee for the purpose of the consideration of the petition, and the committee shall have power to report the order either without amendment or with such amendments as they think expedient to give effect, either in whole or in part, to any such petition, and with such consequential amendments, if any, as they think proper. [1381]

(2) Where any petition so referred to the joint committee is a petition of general objection, and the committee, upon consideration of the petition, are satisfied that effect ought to be given thereto, they may report the order with amendments notwithstanding that the petition is one of general objection, but if in their opinion the order ought not to take effect, they shall report that the order be not approved. [1382]

(3) Subject to Standing Orders, the report of the joint committee in respect of any such order shall be laid before both Houses of Parliament. [1383]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of "order," "Standing Orders," see s. 11, *post*.

6. Operation of orders.—(1) Where an order to which this Act applies is reported by the joint committee without amendment, the order shall come into operation on the date on which the report of the committee is laid before Parliament in accordance with the last foregoing section, or on such later date, if any, as may be specified in the order. [1384]

(2) Where any such order is reported by the joint committee with amendments, then, subject as hereinafter provided, the order shall come into operation as so amended on such date as the Minister may, by notice given in the prescribed manner, determine :

Provided that if the Minister considers it inexpedient that the order should take effect as so amended, he may, by notice given in the prescribed manner, withdraw the order, or may cause the order to be submitted to Parliament for further consideration by means of a Bill for the confirmation thereof. [1385]

(3) Where the joint committee report, with respect to any such order as aforesaid, that the order be not approved, the order shall not take effect unless it is confirmed by Act of Parliament. [1386]

(4) A Bill presented for the purposes of subsection (2) of this section shall set out the order as amended by the joint committee, and any such Bill shall be treated for all purposes as a public Bill except that it shall, after its presentation, be deemed to have passed through all its stages up to and including committee in the House in which it is presented, and shall be ordered to be considered in that House as if it had been reported from a committee thereof, and as if the amendments had been made in committee on the Bill; and when the Bill has been read a third time and passed in that House, the like proceedings shall be taken in the second House. [1387]

(5) A Bill presented for the purposes of subsection (3) of this section shall set out the order as referred to the joint committee, and any such Bill shall be treated for all purposes as a public Bill, except that—

- (a) where a petition for amendment of the order certified as proper to be received was not dealt with by the joint committee, the Bill shall, after being read a second time in the House in which it is presented, be referred to that committee for the purposes of the consideration of that petition, and thereafter shall be ordered to be considered in that House as if it had been reported from a committee thereof; and when the Bill has been read a third time and passed in that House, it shall be deemed to have passed through all its stages up to and including committee in the second House;
- (b) where no such petition has been so certified, the Bill shall, after its presentation, be treated as having passed all its stages up to and including committee in the House in which it is presented, and shall be ordered to be considered in that House as if it had been reported from a committee thereof; and when the Bill has been read a third time and passed in that House the like proceedings shall be taken in the second House. [1388]

Effect of section.—See Preliminary Note, *ante*.

Definitions.—For definitions of “Minister,” “order,” “prescribed,” see s. 11, *post*.

Sub-s. (4).—Referring to this subsection in moving the second reading in the House of Commons on October 18, 1945, The Lord President of the Council said (414 H. of C. Official Report 1381) :—

“This procedure calls for a word of explanation. The House will appreciate that the Minister must have an opportunity of inviting the House as a whole to disagree with the recommendations made by the Joint Committee if he thinks the public interest so requires. This is, of course, so under the existing Provisional Order and Private Bill procedure under which either House at the Report Stage can be invited to reverse the decision of its Committee. But for this purpose it has been found necessary to adopt the procedure of embodying the Order in a Bill in order to attract the ordinary constitutional method of resolving disagreements between the two Houses. The Bill is to be treated as having passed all stages up to and including Committee in both Houses for the reason that the Order will have in fact been examined by the Joint Committee and a further Committee Stage in either House would be a mere reduplication of procedure.”

Sub-s. (5).—See note to sub-s. (4), *supra*. The order to be embodied in the Bill will be the original order referred to the joint committee, since the committee will not have amended the order but will have rejected it *in toto*.

7. Costs.—(1) A joint committee by which an order to which this Act applies is considered shall have the like power to award costs as a select committee of either House in relation to a Provisional Order Bill under the Parliamentary Costs Act, 1865, as applied by the Parliamentary Costs Act, 1871, and the provisions of the first mentioned Act shall apply accordingly subject to any necessary modifications. [1389]

(2) The provisions of the House of Commons Costs Taxation Act, 1847, and the House of Lords Costs Taxation Act, 1849, shall apply with any necessary modifications to costs incurred in respect of an order to which this Act applies, as they apply to costs incurred in respect of a private Bill, and section two of the House of Commons Costs Taxation Act, 1879 (which requires the Taxation Officer to tax the costs of Bills and provisional orders on the request of a Secretary of State or the Minister of Health) shall have

effect as if the reference therein to a provisional order included a reference to an order to which this Act applies, and as if any reference therein to a Secretary of State or the Minister of Health included a reference to the Minister. [1390]

(3) The reasonable costs incurred by a local authority in applying for or supporting an order to which this Act applies, or in opposing any such order, including costs incurred in connection with any local inquiry preliminary thereto, shall, to such extent as may be sanctioned by the Minister of Health, be deemed to be expenses properly incurred by the local authority and shall be paid accordingly, and the local authority may borrow for the purpose of defraying such costs. [1391]

Effect of section.—This section applies the statutory provisions as to award and taxation of costs in connection with private Bills and provisional orders to orders made under this Act and also makes provision for costs of local authorities.

Definitions.—For definitions of “local authority,” “Minister,” “order,” see s. 11, *post*.

8. Application of Act to orders made under certain existing enactments.—

(1) This Act shall apply to any order made or confirmed after the commencement of this Act under any of the enactments specified in the Second Schedule to this Act, being an order which, but for the provisions of this subsection, would be provisional only and of no effect until confirmed by Parliament, and accordingly, in relation to any order so made or confirmed, the provisions of those enactments shall have effect subject to the amendments set out in relation thereto in the second column of that Schedule. [1392]

(2) For the avoidance of doubt it is hereby declared that in the application of this Act—

(a) to any order made by the Minister of Town and Country Planning and the appropriate Minister under subsection (2) of section thirty-five or paragraph (d) of subsection (1) of section thirty-six of the Town and Country Planning Act, 1944 (which provide that certain decisions and consents given by those Ministers must in certain cases be embodied in an order made by them); or

(b) to any order made by the Minister of Health under subsection (2) of section twelve or subsection (6) of section twenty-six of the Water Act, 1945 (which provide that the approval by that Minister of certain agreements shall in certain cases be given by order),

the requirements imposed by the Town and Country Planning Act, 1944, and by the Town and Country Planning Acts, 1932 and 1943, with respect to the procedure to be followed in connection with the giving of such decisions and consents by the Minister of Town and Country Planning and the appropriate Minister otherwise than by order, and the provisions of the Water Act, 1945, with respect to the giving of such approval by the Minister of Health otherwise than by order, are to be deemed for the purposes of section two of this Act to be requirements with respect to proceedings preliminary to the making of the order. [1393]

(3) If at any time after the commencement of this Act an address is presented to His Majesty by both Houses of Parliament praying that the provisions of this Act be applied to orders thereafter to be made under any enactment passed before the commencement of this Act, in substitution for the provisions of any such enactment providing that such orders shall be provisional only and shall not have effect until confirmed by Parliament, His Majesty may by Order in Council make provision for that purpose; and any such Order in Council may adapt or modify any enactment to such extent as may be expedient in consequence of the order. [1394]

(4) The power to make Orders in Council conferred by this section shall include power to revoke or vary any such Order by a subsequent Order. [1395]

Effect of section.—See Preliminary Note, *ante*.

Order.—For definition, see s. 11, *post*.

Sub-s. (1).—*Enactments specified in the Second Schedule.*—These are the Town and Country Planning Act, 1944, the Town and Country Planning (Scotland) Act, 1945, the Local Government (Boundary Commission) Act, 1945, and the Water Act, 1945.

9. Standing Orders for the purposes of this Act.—Without prejudice to any other powers exercisable in that behalf by the House of Lords and the House of Commons respectively, Standing Orders may be made for any purpose connected with the provisions of this Act, and in particular—

- (a) for regulating the manner in which petitions against an order to which this Act applies shall be framed and presented, and for extending the period of fourteen days prescribed by this Act in relation to the presentation of such petitions in any case where that period expires on a day on which the House is not sitting or, in the case of the House of Lords, is sitting for judicial business only ;
- (b) for enabling the functions of the Lord Chairman of Committees and of the Chairman of Ways and Means under this Act to be performed by any deputy appointed in accordance with Standing Orders ;
- (c) for regulating the proceedings of the Chairmen in connection with the examination of petitions under this Act ;
- (d) for prescribing the cases in which a petitioner against an order to which this Act applies shall be treated for the purposes of this Act as having locus standi, and for enabling the Chairmen to determine questions of locus standi in connection with the examination of petitions ;
- (e) for prescribing the constitution of any joint committee of both Houses which may be appointed for the purposes of this Act ;
- (f) for regulating the proceedings of any such committee upon the consideration of any order or Bill referred to them, and in particular for enabling the committee, if satisfied that an amendment prayed for by any petition which is referred to them may affect the interests of persons not represented before them, to afford to any such person an opportunity to be so represented ;
- (g) for regulating the procedure to be followed in connection with any Bill introduced under section six of this Act ; and
- (h) for prescribing anything required under this Act to be prescribed.

[1396]

Definitions.—For definitions of “Chairman of Ways and Means,” “Lord Chairman of Committees,” “order,” “prescribed,” “Standing Orders,” see s. 11, *post*.

10. Application to orders extending to Scotland only.—(1) The provisions of this section shall have effect for the purpose of the application of this Act to orders extending to Scotland only. [1397]

(2) For section two the following section shall be substituted :—

“2.—(1) Before any order to which this Act applies is made or confirmed by the Minister, the requirement of the empowering enactment with respect to the service of notices shall be complied with, and the following notice shall be given by advertisement in the Edinburgh Gazette and, in the case of an order relating to a particular area, in at least one newspaper circulating in that area, that is to say—

- (a) in the case of an order to be made by the Minister on the application of any person, notice by the applicant of the purport of the application ;
- (b) in the case of an order to be confirmed by the Minister, notice by the applicant of the order as submitted by him for confirmation ;
- (c) in the case of an order to be made by the Minister otherwise than on the application of any person, notice by the Minister of the order as proposed to be made.

(2) Any such notice shall specify the time within which and the manner in which objections may be made to the application or to the proposed order, as the case may be, and if any objection (other than an objection which in the opinion of the Minister is frivolous or which relates to a matter that can be dealt with by an arbiter by whom compensation is to be assessed) is duly made in the time and manner so specified or in accordance with the provisions of the empowering enactment and is not withdrawn, or if for any other reason the Minister considers an inquiry necessary, he shall direct an inquiry to be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and the provisions of that Act with regard to inquiries thereunder shall apply in relation to inquiries to be held under this section subject to the following and any other necessary modifications :—

- (a) for any reference to the Secretary of State (except in paragraph (a) of subsection (6) of section six which empowers the Secretary of State to prescribe a scale of costs) there shall be substituted a reference to the Minister :

Provided that subsections (5) and (6) of section five (which relate to the taking of Commissioners from the extra-parliamentary panel and to the filling of casual vacancies) shall, in their application to an order made by the Minister otherwise than on the application of any person, have effect with the substitution of references to the Lord President of the Court of Session for references to the Secretary of State :

- (b) subsection (4) of section six (which relates to the reference of recommendations to the Commissioners) shall not apply.

(3) The power conferred by section fifteen of the aforesaid Act to make general orders shall extend to the making of general orders for the regulation of proceedings in inquiries directed to be held under this section, including the fixing, with the consent of the Treasury, of a scale of fees to be paid by applicants for, and supporters and opponents of, orders to which this Act applies.

(4) If the Minister is not prepared to accept the recommendations of the Commissioners with regard to any application or proposed order referred to them under this section, he may cause to be presented to Parliament a Bill for the confirmation of the order, and the provisions of section nine of the Private Legislation Procedure (Scotland) Act, 1936, shall apply to such Bill in like manner as they apply to the Confirmation Bills therein mentioned.

(5) When any order to which this Act applies is laid before Parliament, or a Bill for the confirmation of any such order is presented to Parliament in pursuance of the last foregoing subsection, there shall, together with it, be laid before or presented to Parliament, a statement by the Minister specifying any objections made to the order and not withdrawn ; stating whether an inquiry has been held under subsection (2) of this section, and in any case where any inquiry was not so held, what objections, if any, were (a) in the opinion of the Minister frivolous, or (b) related to matters which could be dealt with by an arbiter assessing compensation.

(6) In this section, the expression ‘empowering enactment’ in relation to any order includes any enactment other than this Act which has the effect of requiring the service of notices in connection therewith, and for the purposes of subsection (1) of this section a notice shall be sufficient notice of an order if it sets out the purport of the order and specifies a place where copies thereof may be inspected free of charge at all reasonable hours.” [1398]

(3) For section four the following section shall be substituted :—

“ 4.—(1) If either House within the period of fourteen days beginning with the date on which the report of the Chairmen relating to any order to which this Act applies is laid before it, resolves that the order be annulled, the order shall thereupon become void, and no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new order.

In reckoning any such period, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(2) If a petition against the order has been certified by the Chairmen as proper to be received, either House may, within the period mentioned in the last foregoing subsection, on the consideration of a motion that the petition be referred to a joint committee of both Houses or of a motion for the annulment of the order under the last foregoing subsection order that the petition be referred to a joint committee of both Houses.

Provided that the order shall not be annulled except in accordance with the next two succeeding sections if either—

- (i) a petition of general objection has been so referred ; or
- (ii) a petition for amendment has been so referred on consideration of a motion for annulment.

(3) If, at the expiration of the period mentioned in subsection (1) of this section neither House has resolved that the order be annulled or ordered that a petition against the order be referred to the joint committee, the order shall come into operation at the expiration of that period or on such later date, if any, as may be specified in the order.”
[1399]

(4) Section six of this Act shall have effect as if—

- (i) in paragraph (a) of subsection (5) for the words from “ certified as ” to “ joint committee ” there were substituted the words “ has been referred to the joint committee and has not been dealt with by them ” ; and
- (ii) in paragraph (b) of the said subsection for the word “ certified ” there was substituted the word “ referred ”. [1400]

(5) Section seven of this Act shall have effect as if for subsection (3) the following subsection were substituted :—

“(3) The expenses reasonably incurred by a local authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, in applying for or supporting or opposing an order to which this Act applies including expenses incurred in connection with any inquiry before Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, shall, save as otherwise provided in any enactment, be defrayed in like manner as expenditure by the authority on the functions for the purposes of which such application was made, supported or opposed by the authority.” [1401]

11. Interpretation.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

- “ Chairman of Ways and Means ” means the Chairman of Ways and Means in the House of Commons, and includes any deputy acting on his behalf in accordance with Standing Orders ;
- “ Local authority ” means any authority being, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate.

"Lord Chairman of Committees" means the Lord Chairman of Committees of the House of Lords, and includes any deputy acting on his behalf in accordance with Standing Orders ;

"Order" includes a scheme, certificate or byelaws ;

"Prescribed" means prescribed by Standing Orders under this Act ;

"Standing Orders" means standing orders of the House of Lords and the House of Commons respectively ;

"The applicant," in relation to an order to which this Act applies, means the person on whose application the order is made or confirmed ;

"The Minister," in relation to any such order, means the Minister of the Crown responsible for laying the order before Parliament. [1402]

(2) For the avoidance of doubt it is hereby declared that any power to amend or revoke an order to which this Act applies by a subsequent order may be exercised notwithstanding that the original order has been confirmed by Act of Parliament in accordance with the provisions of this Act. [1403]

12. Short title, commencement and extent.—(1) This Act may be cited as the Statutory Orders (Special Procedure) Act, 1945. [1404]

(2) This Act shall come into operation on the first day of June, nineteen hundred and forty-six. [1405]

(3) This Act shall not extend to Northern Ireland. [1406]

SCHEDULES

Section 2

FIRST SCHEDULE

PRELIMINARY PROCEEDINGS

1. Before the order is made or confirmed, the following notice shall be given by advertisement in the London Gazette and, in the case of an order relating to a particular area, in at least one newspaper circulating in that area, that is to say—

- (a) in the case of an order to be made on the application of any person, notice of the purport of the application shall be given by the applicant ;
- (b) in the case of an order to be confirmed on the application of any person, notice of the order as submitted for confirmation shall be given by the applicant ;
- (c) in the case of an order to be made otherwise than on the application of any person, notice of the order as proposed to be made shall be given by the authority empowered to make it.

2. Every such notice shall specify the time, not being less than twenty-eight days, within which and the manner in which objections may be made to the application or to the order, as the case may be.

3. If any such objection as aforesaid is duly made and is not withdrawn, the authority empowered to make or confirm the order shall take the objection into consideration, and shall cause a local inquiry to be held unless they are satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.

4. Notice of any such inquiry as aforesaid shall be given in such manner as the authority empowered to make or confirm the order may direct, and all persons interested shall be permitted to attend the inquiry and make objections ; and the provisions of subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to evidence and costs) shall apply in relation to any such inquiry as if for any reference therein to the department there were substituted a reference to the authority empowered to make or confirm the order.

5. For the purposes of paragraph 1 of this Schedule, a notice shall be sufficient notice of an order if it sets out the purport of the order and specifies a place where copies thereof may be inspected free of charge at all reasonable hours. [1407]

Section 8

SECOND SCHEDULE

ENACTMENTS CONFERRING POWER TO MAKE ORDERS IN THE CASE OF WHICH SPECIAL PARLIAMENTARY PROCEDURE IS SUBSTITUTED BY THIS ACT FOR PROVISIONAL ORDER PROCEDURE.

*Enactment**Amendment*

The Town and Country Planning Act, 1944

(7 & 8 Geo. 6, c. 47)

Subsections (4) and (5) of section thirteen.

Subsections (1) and (2) of section fourteen.

Subsection (7) of section twenty-five.

Subsection (6) of section twenty-six.

Subsection (4) of section twenty-seven.

Subsection (3) of section thirty-five.

Paragraphs (d) and (e) of subsection (1) of section thirty-six.

Section sixteen For subsection (4) there shall be substituted the following subsection :—

“(4) This section shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, but except as aforesaid shall have effect in relation to an order to which that Act applies as if in subsection (1) for the reference to the date on which notice of the making or confirmation of the order by the Minister having jurisdiction to make or confirm it is first published in accordance with the provisions of this Act in that behalf there were substituted a reference to the date on which the order becomes operative under the Statutory Orders (Special Procedure) Act, 1945, and as if in subsection (2) the words ‘ and shall become operative on the date on which such notice as aforesaid is first published as aforesaid ’ were omitted.”

The Town and Country Planning (Scotland) Act, 1945

(8 & 9 Geo. 6, c. 33)

Subsections (4) and (5) of section thirteen.

Subsections (1) and (2) of section fourteen.

Subsection (7) of section twenty-four.

Subsection (6) of section twenty-five.

Subsection (4) of section twenty-six.

Subsection (3) of section thirty-four.

Paragraphs (d) and (e) of subsection (1) of section thirty-five.

For the words “ provisional only and shall be of no effect until confirmed by Parliament ”, wherever those words occur, there shall be substituted the words “ subject to special parliamentary procedure.”

<i>Enactment</i>	<i>Amendment</i>
Section fifteen ..	.. For subsection (5) there shall be substituted the following subsection :— <div data-bbox="498 155 1038 537"> <p>“(5) This section shall not apply to an order which is confirmed by Act of Parliament under subsection (4) of section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act, but except as aforesaid shall have effect in relation to an order to which that Act applies as if for the reference in subsection (1) to the date on which notice of the making or confirmation of the order by the Minister having jurisdiction to make or confirm it is first published in accordance with the provisions of this Act in that behalf, there were substituted a reference to the date on which the order comes into operation under the Statutory Orders (Special Procedure) Act, 1945, and as if subsection (4) were omitted.”</p> </div>
Section twenty-four ..	.. In subsection (4) for the words from “ considering the objection ” to “ for the purpose ” there shall be substituted the words “ causing an inquiry to be held ”. In subsection (5) for the words from “ consider the objection ” to “ for the purpose ” there shall be substituted the words “ cause an inquiry to be held ”.
Section fifty ..	.. After section fifty there shall be inserted the following section :— <div data-bbox="498 735 1038 1141"> <p>“ 50A—(1) Any inquiry in relation to an Order under this Act which in certain events becomes subject to special parliamentary procedure, and any hearing in connection with an appeal against the refusal, or the grant, subject to conditions, of an interim development application by statutory undertakers, or with such an application made by such undertakers and referred to the Secretary of State, or with the revocation or modification of permission for interim development granted to such undertakers shall, if the Ministers concerned so direct, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936 ; and any direction so given shall be deemed to have been given under section two, as read with section ten of the Statutory Orders (Special Procedure) Act, 1945.</p> <p>(2) Paragraphs 4 and 5 of the First Schedule to this Act shall not apply in relation to any order under this Act which in certain events becomes subject to special parliamentary procedure.</p> <p>(3) Nothing in subsections (2) to (9) of the last preceding section shall apply to any inquiry under this section by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936.</p> <p>(4) The provisions of the Statutory Orders (Special Procedure) Act, 1945, with regard to the publication of notices in the Edinburgh Gazette and in a newspaper, shall, notwithstanding anything in that Act contained, not apply to any order under this Act which is subject to special parliamentary procedure.”</p> </div>
Second Schedule	.. In paragraph 2 after the word “ publish ” there shall be inserted the words “ by Gazette and local advertisement ” ; sub-paragraph (3) shall be omitted.

<i>Enactment</i>	<i>Amendment</i>
Third Schedule	In paragraph 3 for the words in sub-paragraph (2) from "afford that person" to "for the purpose", there shall be substituted the words "cause an inquiry to be held".
The Local Government (Boundary Commission) Act, 1945 (8 & 9 Geo. 6, c. 38)	
Subsection (9) of section three.	For the words "provisional only and shall be of no effect until confirmed by Parliament" there shall be substituted the words "subject to special parliamentary procedure".
The Water Act, 1945 (8 & 9 Geo. 6, c. 42)	
Subsection (5) of section nine.	For the words "provisional only and not have effect until they are confirmed by Parliament", wherever those words occur, there shall be substituted the words "subject to special parliamentary procedure".
Subsection (4) of section ten.	
Subsection (3) of section thirty-two.	
Subsection (2) of section thirty-three.	
Subsections (2) and (5) of section twelve.	For the words "provisional only and not have effect until it is confirmed by Parliament", wherever those words occur, there shall be substituted the words "subject to special parliamentary procedure".
Subsection (7) of section twenty-four.	
Subsections (6) and (7) of section twenty-six.	
Section fourteen	In subsection (2), for the words "provisional only and shall not have effect until they are confirmed by Parliament" there shall be substituted the words "subject to special parliamentary procedure".
First Schedule	In paragraphs 8, 17 and 23, for the words "provisional only and shall not have effect until it is confirmed by Parliament", wherever those words occur, there shall be substituted the words "subject to special parliamentary procedure". In paragraphs 9 and 18, for the words "notification and confirmation", in both places where those words occur, there shall be substituted the words "and notification", and after the word "Schedule", in both places where that word occurs, there shall be inserted the words "including any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act, 1945". In paragraph 24, for the words "and the confirmation of orders thereunder" there shall be substituted the words "including any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act, 1945".
Second Schedule	At the end of the Schedule there shall be added the following paragraph :— "11. The provisions of paragraphs 8 to 10 of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, but except as aforesaid those provisions shall have effect in relation to an order to which that Act applies as if in paragraph 8 for the reference to the publication of the notice of confirmation of the order there were substituted a reference to the date on which the order becomes operative under that Act, and as if in paragraph 9 the words from 'and shall become operative' to the end of the paragraph were omitted." [1408]

SUPERANNUATION

STATUTES :—	PAGE		PAGE
Teachers (Superannuation) Act, 1945	438	Circular 108/45 : Pensions (Increase) Act, 1944	456
ORDERS, CIRCULARS AND MEMORANDA :—		CASES :—	
Increase of Pensions (General) (Amendment) Regulations, 1945	454	Algar v. Middlesex County Council, [1945] 2 All E. R. 243	458

STATUTES

THE TEACHERS (SUPERANNUATION) ACT, 1945

(8 & 9 Geo. 6, c. 14)

PRELIMINARY NOTE

The purpose of this Act, which received the Royal Assent on March 28, 1945, is to bring the superannuation legislation for teachers into conformity with the lay-out of the educational system and with the new nomenclature adopted under the Education Act, 1944. The definition of "contributory service" contained in s. 2 of the principal Act, the Teachers (Superannuation) Act, 1925, is therefore amended by s. 1 of the new Act. Certain amendments are also made to other provisions of the existing legislation. For example, the Act enables the full-time services of persons employed in running Youth Service clubs and community centres (including youth services conducted by grant-aided voluntary associations) to be treated as pensionable. It also enables all supplementary teachers (and not some only, as heretofore) to qualify for pensions; and it enables teachers to be seconded for other work for a period of up to five years without prejudice to their pension rights. These and other amendments made by the Act are fully dealt with in the notes to the individual sections, *post*. [1409]

ARRANGEMENT OF SECTIONS

Section	Page
1. Definition of contributory service for the purposes of 15 & 16 Geo. 5, c. 59	439
2. Superannuation of certain persons serving in the educational service otherwise than as teachers	441
3. Provisions with respect to independent superannuation schemes ..	442
4. Saving for superannuation rights of teachers employed by managers of public elementary schools	445
5. Reckoning for pension of certain service which was not contributory or recognised service	445
6. Payment of employer's contributions in respect of past service which is treated as contributory service under this Act	446
7. Provisions as to grant of a second or subsequent annual allowance ..	447
8. Right of teachers engaged in war service to require repayment of contributions	448
9. Meaning of "period of war service" in 2 & 3 Geo. 6, c. 95	448
10. Actuarial inquiries	449
11. Miscellaneous amendments of enactments relating to superannuation of teachers	449
12. Financial provisions	450
13. Interpretation	450
14. Short title, citation, commencement and extent	451

SCHEDULES :

First Schedule.—Service before 1st April, 1945, which may be treated as if it were Contributory or Recognised Service	451
Second Schedule.—Amendment of Enactments	452

An Act to amend the definition of contributory service for the purposes of the Teachers (Superannuation) Act, 1925, to extend the enactments relating to the superannuation of teachers to certain persons employed in connection with the provision of educational services otherwise than as teachers, and to make other amendments of the law relating to the superannuation of teachers and such persons as aforesaid. [28th March, 1945.]

1. Definition of contributory service for the purposes of 15 & 16 Geo. 5, c. 59.—(1) The definition of contributory service contained in section two of the Teachers (Superannuation) Act, 1925 (hereinafter referred to as “the principal Act”), shall have effect only in relation to service before the date of the commencement of this Act; and in relation to service on or after that date the expression “contributory service” shall for the purposes of the said Act mean full-time service—

- (a) as a teacher in a school or county college maintained by a local education authority under the Education Act, 1944, being a school or college in respect of which grants are made by the Minister to the authority;
- (b) as a teacher in any establishment maintained by a local education authority in pursuance of a scheme of further education or in pursuance of the provisions of section forty-seven of the Education Act, 1944, or of section seventy-five of the Education Act, 1921, being an establishment in respect of which grants are made by the Minister to the authority;
- (c) as a teacher in a school in respect of which grants are made by the Minister to the proprietor thereof;
- (d) as a teacher of such kind as may be prescribed in a special school not maintained by a local education authority, in an approved school, or in a school provided by the council of a county or county borough under the provisions of section fifty-three of the Poor Law Act, 1930;
- (e) as a teacher of such kind as may be prescribed in a certified institution as defined by section seventy-one of the Mental Deficiency Act, 1913, or as a teacher of such kind as may be prescribed employed by a local authority in the exercise of their functions under paragraph (cc) of section thirty of that Act;
- (f) as a teacher employed by a local education authority, or by any person or body of persons in respect of whose expenditure grants are made by the Minister, in any service other than such service as in hereinbefore mentioned, being service approved by the Minister for the purposes of this paragraph;
- (g) as a teacher of such kind as may be prescribed employed by a voluntary association which is in receipt of contributions in pursuance of a scheme in force under subsection (2) of section one hundred and two of the Local Government Act, 1929;
- (h) in the case of a person whose service in any capacity was, before the first day of April, nineteen hundred and nineteen, recorded by the Board of Education under the Elementary School Teachers (Superannuation) Act, 1898, as a teacher in any capacity approved by the Minister for the purposes of this paragraph; or
- (i) as a teacher in any school which was approved by the Treasury for the purposes of paragraph (vii) of section eighteen of the School Teachers (Superannuation) Act, 1918, during any period during which the school satisfies the conditions mentioned in that paragraph, unless the Minister, upon the application of the proprietor of the school, has determined that service in that school shall not be treated as contributory service, or the Board of Education have made a like determination in relation to the school under the powers conferred by the principal Act:

Provided that the foregoing definition shall have effect subject to provisos (a) and (b) to subsection (1) of section two of the principal Act. [1410]

(2) For the purposes of the foregoing subsection :—

- (a) a teacher shall be deemed to be employed in full-time service in any such school as is therein mentioned if the Minister is satisfied that he is employed in full-time service which is mainly and primarily service in the capacity of a teacher in such a school, and, in so far as it is not such service, is service in some other school under the same management as, and educationally connected with, such a school ;
- (b) the service of any person shall be deemed to be service as a teacher if the Minister is satisfied either that the service is wholly in the capacity of a teacher or that it is mainly and primarily in the capacity of a teacher and that any other duties of the employment are educational duties connected with the duties in that capacity ; and
- (c) the service of any person shall be deemed to be service as a teacher if it is service in any capacity in which it is his principal duty to attend any establishment for providing social or physical training and either to provide or to supervise the provision of such training therein ;

and references in the principal Act to teachers shall be construed accordingly. [1411]

(3) In relation to service after the commencement of this Act section two of the principal Act shall have effect as if subsection (2) were omitted therefrom. [1412]

Contributory service.—The definition of “ contributory service ” contained in s. 2 of the Teachers (Superannuation) Act, 1925, has effect in relation to service before April 1, 1945 ; or on or after that date the new definition applies.

The new definition is framed so as to bring the provisions of the principal Act of 1925 into line with the new terminology adopted under the Education Act, 1944. For example, the term “ elementary school ” disappears under the Act of 1944 ; consequently that expression, as it appears in the old definition of “ contributory service,” is out of date.

Sub-s. (1) is so drafted as to continue to cover all types of service previously pensionable ; and it also extends the definition to cover new classes of persons, notably those supplementary teachers who were pensionable under the Local Government (Superannuation) Act, 1937, or were not pensionable at all ; certain teachers in occupation centres conducted by local authorities under the Mental Deficiency Acts, 1913–1927, and home teachers employed by such authorities ; youth leaders and youth club wardens employed by local education authorities or by voluntary organisations in receipt of a grant from the Minister of Education ; and certain teachers employed by voluntary organisations in occupation centres or as home teachers.

The kinds of teachers who will be in contributory service under paragraphs (d), (e) and (g) of the above section are to be prescribed by Statutory Rules.

Youth service.—Where, prior to the passing of this Act, the employment of a teacher in the Youth Service was being treated as contributory service under the terms of the principal Act, such service, from April 1, 1945, onwards, will be approved by the Minister of Education for the purposes of subsection (1) (f) and will continue to be treated as contributory service ; where, however, such employment was not formerly treated as contributory service, but appears now to be covered by subsection (2) (c) of this section, the Minister will in each case inform the person concerned of the effect in his case of the application of the Act, on receipt of a statement showing the date of his appointment to the post, the nature of his duties, the name of any superannuation scheme to which he is subject, and particulars of his previous service (Ministry of Education, Circular 36, dated March 28, 1945).

Transitional provisions.—In the case of a teacher employed in a secondary school which, prior to the passing of this Act, received its grant through the local education authority, or direct from the Ministry, the Minister of Education is prepared to approve the service of the teacher during the whole or any part of the transitional period, while the school is assisted by the authority under s. 9 (1) of the Education Act, 1944. This transitional period is to end on the date on which an Order is made determining that the school shall be a controlled or aided voluntary school, or, in the case of a school which prior to the passing of the Act received its grant through the local education authority and is recognised by the Ministry as a Direct Grant Grammar School, at the beginning of the educational year 1945–6 (Ministry of Education, Circular 36).

Education Act, 1944, s. 47.—The section makes interim provisions as to further education.

Education Act, 1921, s. 75.—The whole of the 1921 Act is repealed as from April 1, 1945, by s. 121, Schedule IX, Part I, of the Education Act, 1944 ; but s. 75 remains in force in any area in which ss. 76, 77 and 93 of the 1921 Act are in operation until s. 44 of the 1944 Act

(imposing a duty to attend a county college in accordance with a college attendance notice) comes into operation.

Proprietor.—" 'Proprietor,' in relation to any school, means the person or body of persons responsible for the management of the school, and for the purposes of the provisions of this Act relating to applications for the registration of independent schools, includes any person or body of persons proposing to be so responsible " (Education Act, 1944, s. 114). The definition applies to the present Act (see s. 13, *post*).

Poor Law Act, 1930, s. 53.—The section deals with the establishment of separate schools under the Act.

Mental Deficiency Act, 1913, ss. 71, 30 (*cc*).—S. 71 is the interpretation section, and defines "certified institution" as an institution in respect of which a certificate has been granted under the Act to the managers to receive defectives therein, and includes premises provided by a Board of Guardians and approved under the Act. S. 30 (*cc*), which was added by s. 7 (2) of the Mental Deficiency Act, 1927, empowers a local authority to provide suitable training or occupation for defectives who are under supervision or guardianship or have been sent to certified institutions.

Local Government Act, 1929, s. 102 (2).—The subsection empowers the Minister of Health to make schemes providing for the payment of contributions by the councils of counties and county boroughs to voluntary associations which undertake the duty of assisting or supervising defectives whilst not in institutions.

Elementary School Teachers (Superannuation) Act, 1898.—April 1, 1919, is the date on which the School Teachers (Superannuation) Act, 1918 (*infra*), came into operation, and after which no service (except "recognised service" within the 1918 Act) is recordable under the Act of 1898.

School Teachers (Superannuation) Act, 1918, s. 18 (*vii*).—The conditions mentioned in the paragraph are that such Treasury-approved school:

- (a) is not conducted for private profit; and
- (b) is open to inspection by the Board of Education and is shown to the satisfaction of the Board to be efficient; and
- (c) is unable out of its own resources to maintain a satisfactory pensions scheme; and
- (d) satisfies such other conditions as may be prescribed as necessary or desirable for securing the public interest.

Principal Act.—The Teachers (Superannuation) Act, 1925, s. 2 (1), proviso (a), provides that no service in respect of which contributions are payable under the Asylums Officers' Superannuation Act, 1909, as amended, shall be deemed to be contributory service. Proviso (b) makes a provision as to contributions which are not paid within the prescribed time. S. 2 (2) explains when, for the purposes of Part II of the principal Act, (a) a teacher may be deemed to be employed in full-time service in a grant-aided school and (b) when service may be deemed to be service as a teacher. The subsection is, of course, now outdated by sub-s. (2) of the present section, *supra*.

2. Superannuation of certain persons serving in the educational service otherwise than as teachers.—(1) Where the Minister is satisfied with respect to service of any particular kind that it is not service as a teacher and is not service which to a substantial extent involves the control or supervision* of teachers, but that it is service which to a substantial extent involves the performance of duties of an organising or advisory character in connection with the provision of education or of services ancillary to education, and that it is service in the performance of which teaching experience is of value, he may approve service of that kind for the purposes of this subsection; and if any person is employed by a local education authority after the commencement of this Act in service of a kind so approved, his said employment after the commencement of this Act shall, if he makes application to the Minister for that purpose within the prescribed time and in the prescribed manner, be treated for the purposes of the principal Act as if it were employment as a teacher in contributory service, and references in the principal Act to teachers and to contributory service shall be construed accordingly:

Provided that the employment of a person shall not be treated as employment in contributory service by virtue of this subsection unless he has previously been employed for not less than three years, whether in England or Wales or elsewhere and whether before or after the commencement of this Act, as a teacher in a capacity approved by the Minister. [1418]

(2) Where the Minister is satisfied with respect to service of any particular kind that it is not service as a teacher but is service which to a substantial extent involves the performance of duties of an organising or advisory character in connection with the provision of education or of services ancillary to education, he may approve service of that kind for the purposes of this subsection; and if any person is employed after the commencement of

this Act in service of a kind so approved, and his said employment is not employment in the service of a local education authority but is employment in the service of a person or body of persons in respect of whose expenditure grants are made by the Minister, his said employment after the commencement of this Act shall if he makes application to the Minister for that purpose within the prescribed time and in the prescribed manner be treated for the purposes of the principal Act as if it were employment as a teacher in contributory service, and references in the principal Act to teachers and to contributory service shall be construed accordingly. [1414]

(3) Where under section one of the Teachers Superannuation (War Service) Act, 1939, a period of war service is treated for the purposes of Part II of the principal Act as if it were a period of contributory service, that period of war service shall also be treated as if it were a period of service as a teacher in a capacity approved by the Minister for the purposes of this section and of section fourteen of the principal Act. [1415]

Object of the section.—Sub-s. (1) of the above section deals with educational organisers employed by education authorities. Under the law as it formerly stood the definition of “organisers” was restricted to persons who satisfied the Board of Education that they (a) were or had been employed by a local education authority in full-time service which to a substantial extent involved the control or supervision of teachers; and (b) before being so employed had been engaged for not less than three years as a teacher in a capacity approved by the Board (1925 Act, s. 14). The present section extends pension rights to the service of experienced teachers who are seconded for other forms of organising work—e.g. the organisation of the school meals service.

Sub-s. (2) extends the definition of organising service still further by bringing in those employed in an organising capacity by grant-aided voluntary bodies, including the youth service.

In short, the extensions cover those whose range of service may be regarded as falling within the education service and who perform duties similar to those which teachers perform.

If he makes application to the Minister for that purpose within the prescribed time and in the prescribed manner.—These words were inserted to secure that an organiser of the kind referred to shall not be automatically brought within the scope of the principal Act, but shall be enabled to continue under the terms of the Local Government Superannuation Act if he so wishes.

Teachers Superannuation (War Service) Act, 1939.—Sub-s. (3) of the present section provides that where a period of war service is treated as if it were a period of contributory service under the Teachers Superannuation (War Service) Act, 1939, such period of war service shall count as a period of service as a teacher in a capacity approved by the Minister of Education for the purposes of the present section and s. 14 of the principal Act. In other words, a teacher may count his or her service in the Forces as if he or she had actually been in the school.

3. Provisions with respect to independent superannuation schemes.—

(1) Notwithstanding anything in any enactment, a person employed in contributory service shall not be subject to an independent superannuation scheme in respect of that service. [1416]

(2) Where a person who becomes employed in contributory service at or after the commencement of this Act :—

(a) has, not more than one year before he so becomes employed in contributory service, been subject to an independent superannuation scheme; and

(b) would, but for the foregoing subsection be subject to such a scheme in respect of the service in which he so becomes employed;

the service in which he so becomes employed shall not be treated as contributory service, and he shall be subject to the independent superannuation scheme accordingly:

Provided that if any person who is subject to an independent superannuation scheme by virtue of the foregoing provisions of this subsection elects within the prescribed time and in the prescribed manner to withdraw from the scheme, the said provisions shall not have effect in relation to any service in which he is employed after the election takes effect. [1417]

(3) Where any person makes such an election, the election shall take effect as from the commencement of this Act, or as from the time when he entered the service in which he is for the time being employed, whichever is the later. [1418]

(4) Where any such election is made by a person who is a contributory employee or a local Act contributor as defined by the Local Government Superannuation Act, 1937, he shall be entitled to receive out of the appropriate superannuation fund a sum equal to the aggregate amount of his contributions to that fund calculated in accordance with subsection (5) of section ten of the said Act of 1937, or, as the case may be, in accordance with the corresponding provision of the local Act scheme, together with compound interest on those contributions, calculated to the date on which he ceased to be a contributory employee or a local Act contributor, at the rate of three per cent. per annum with half-yearly rests. [1419]

(5) In this section the expression "independent superannuation scheme" means :—

(a) any superannuation scheme other than the scheme established by the principal Act (including a superannuation scheme established by or under any public general or local Act of Parliament or provisional order confirmed by Parliament) which provides for the payment of contributions to a fund by any local authority or the persons responsible for the management of any educational establishment and for the payment out of that fund, in respect of service rendered to the authority or to those persons, of benefits on disablement, retirement, attainment of any specified age or death ; and

(b) any system of superannuation (not being a system established by or under any public general or local Act of Parliament or provisional order confirmed by Parliament) operated jointly by a number of educational establishments for the purpose of providing such benefits as aforesaid in respect of the service of persons employed by them. [1420]

(6) The following provisions are hereby repealed, that is to say :—

(a) section fourteen of the School Teachers (Superannuation) Act, 1918, as it has effect for the purposes of the principal Act ; and

(b) paragraph 4 of Part II of the First Schedule to the Local Government Superannuation Act, 1937 :

Provided that, without prejudice to the provisions of subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), nothing in this repeal shall affect the operation of the said section fourteen in relation to any person who became entitled to make a declaration under that section before the commencement of this Act.

[1421]

Object of ss. 3-6.—The object of the above section and of ss. 4, 5 and 6, *post*, can best be explained in the words of the Minister of Education (Mr. Butler), who, on moving the Second Reading of the Bill in the House of Commons (407 H. of C. Official Report 1310) said :—

"Clauses 3 to 6 primarily relate to supplementary teachers and they occupy about one-third of the Bill. Their incredible intricacies conceal an act of justice to the supplementary teacher. I will attempt to explain their contents in language as simple as possible. In passing, it may be said that this act of justice to supplementary teachers is only a further example of the manner in which the Government have attempted, not only in the Education Act, but in other ways, to try to improve the lot of teachers. There are a number of women, mostly in the rural elementary schools, who have no specific educational qualifications, but who help out, to assist and supplement the teaching staff, particularly in the smaller schools. These women have never been regarded as teachers for superannuation purposes and their service and description have come under different names. It is the object of the First Schedule of the Bill to make clear what class of teachers we have in mind in the description under these Clauses. For many years latterly supplementary teachers have been serving under the Code. They form a limited class, some few thousands in all, and they serve under general arrangements approved by one of His Majesty's inspectors. Their numbers are declining and in due course they will disappear as a name and as a class of teacher. I think it therefore all the more incumbent upon us at this stage of pension legislation to look after this army of women who have put in years of work and become more or less permanently established. The new definition of contributory service, unlike the omissions of previous pension legislation, will therefore extend to cover the supplementary teacher."

"How are we going to calculate the back service, and the payment of contributions in respect of such back service, if we are to make a proper scheme of pensions for these teachers? With absolute clarity Clauses 3 to 6 explain the arrangements we have in mind. The first point which hon. Members should fix clearly in their minds is that a considerable proportion of these supplementary teachers are contributors under the Local Government Superannuation Act, 1937, and are therefore pensionable under that Act. But not all supplementary teachers are pensionable under that Act, and I will give the House an example. Some of these supplementary teachers work in voluntary schools, in fact many of them do. I explained that they are chiefly to be found in the small rural areas. In these cases, in order to enable them to become pensionable under the Local Government Superannuation Act, a resolution has had to be passed by the local education authority under whom they work applying the local government Act to them, and this has not always been done. Moreover, under the present system such a resolution would apply only to service in a particular school and would not necessarily cover the whole of a teacher's service if she is transferred from one voluntary school to another. Thus even when a supplementary teacher has been pensionable under the Local Government Superannuation Act it has not been possible to ensure continuity.

"We now propose to make things clearer and fairer all round. I will explain the matter by taking first those who are contributors, or those who within the previous twelve months have been contributors under the Local Government Superannuation Act. These will continue to be pensionable under that Act unless they elect to transfer to the teachers' superannuation Acts system, which this Bill gives them an opportunity to do. A teacher who elects to change over to the teachers' superannuation system will be entitled to receive out of the appropriate local superannuation fund the contributions which have already been paid in, so the teacher then holds the contributions in her hands. To secure that back service counts for pension the teacher must pay the appropriate contributions under the Teachers (Superannuation) Act, 1925, in regard to any service subsequent to the date, 31st May, 1922. That is taken because it was the date of initiation of our teachers' superannuation legislation. The employers' contributions in respect of such service are to be counted subsequent to 31st March, 1928. The House may well ask why that should be the case. It is because the employers' contributions only started then, the early pension legislation including only the payments by the contributor and not by the employer.

"So we have the two dates of 1922 and 1928 established. Where the teachers transfer direct from the local government superannuation scheme to the teachers' superannuation scheme the local education authority employing the teacher will, in lieu of the employers' contribution, pay the Minister from the local superannuation fund the normal transfer value payable on the passing of a local government officer from one authority to another. In all these matters we have the transfer value, and the equivalent will be the same as if a local government officer passed from one authority to another, minus the contributions, to which I referred just now when I said the teacher would have her contributions in her hand, paid back to the teacher, but provided that the sum paid to the Minister does not exceed the contributions otherwise payable by the employer under the Teachers (Superannuation) Act, 1925. The reason for this is that it would clearly be illogical if the amount exceeded the sums laid down under the teachers' superannuation scheme. We have, therefore, linked up quite clearly the system of the local government Act and the position and option which such a person can take.

"So much for the position of the supplementary teachers who on 1st April next or within the preceding twelve months have been contributors under the Local Government Act. Their case, as the House will see is comparatively simple and easy to understand. But some supplementary teachers have never been contributors under that Act. Some, owing to a break in their service, may not be so contributing when the Act comes into operation, and have not been so contributing within the previous twelve months. These teachers automatically become contributors under the Teachers (Superannuation) Act on 1st April, 1945, and their service thereafter is contributory and pensionable. Such a supplementary teacher will be able to count her back service if she pays the requisite contributions on any service subsequent to 31st May, 1922, the date previously established. Rules which we propose to issue will provide that such payments can be made interest free if they are paid within a two-year period. We are, of course, including that provision because it will obviously be difficult for such persons to find their back contributions, and we propose to include this concession in the rules to help them to do so. It will similarly be necessary for the employing authority, that is the local education authority under whom the teacher was employed when she was first entitled to apply for back service to be counted, to pay to the Minister the employer's contribution—we have been considering the teachers' contribution—for all such back service, wherever rendered subsequent to 31st March, 1928, the date already established for the payment of employer's contribution, as is to be reckoned for pension. Employers' contributions will rank as expenditure of the authority for grant purposes.

"It is clear that some supplementary teachers will find difficulty in paying their back contributions, and I am sorry that we have to insist upon this as part of the scheme. I have to do it because, on examining with some care the pensions legislation, I find that the same problem arose in 1925, when certain teachers were disqualified under the School Teachers (Superannuation) Act, 1918, and were brought within the scope of the Act of 1925. The view was then taken that as contributions had been paid by all teachers since 1922, the initial date which was established, it was impossible to forgo the need for paying past contributions where the service was brought in retrospectively. Had such a concession been made it would have prejudiced, and probably imperilled, the whole contributory basis of the superannuation scheme.

"Therefore, while hon. Members will agree that it will be hard for such teachers to find their contributions, I think it is necessary, in the interest of the scheme as a whole, to insist that these back contributions shall be paid. I indicated that there would be

some concession, that if these contributions were paid within two years, there would be no question of interest. What will be the position of the teacher who cannot pay within two years? Such a teacher will be permitted to pay by instalments, except that after the two years' period we shall have to insist on interest. During the further period of her service she will pay by instalments, with an ultimate adjustment, if necessary, on the allowances payable when the pension is due. This represents an amendment of the existing law with regard to superannuation legislation by the introduction of an important class of teacher who render valuable service, namely, the supplementary teacher."

Local Government Superannuation Act, 1937.—For the meaning of "contributory employee" under that Act, see s. 3 thereof; and for the meaning of "local Act contributor," see s. 40 thereof.

4. Saving for superannuation rights of teachers employed by managers of public elementary schools.—Where immediately before the commencement of this Act any person was, as a teacher employed by the managers of a public elementary school maintained but not provided by the council of a county district, a contributory employee or a local Act contributor as defined by the Local Government Superannuation Act, 1937, then, subject to the provisions of the last foregoing section, his service after the commencement of this Act in the employment of the managers or governors of the school shall, for so long as the school remains a voluntary school, be deemed for the purposes of the said Act of 1937 and of any local Act scheme as defined by that Act to be service in the employment of the local education authority by whom the school is for the time being maintained, and he shall be entitled to participate in the benefits of the appropriate superannuation fund accordingly. [1422]

Object of the section.—For the objects of this section, the preceding section, and the two following sections, see the notes to s. 3, *ante*.

5. Reckoning for pension of certain service which was not contributory or recognised service.—(1) Subject to the provisions of this section, where a person who is employed in contributory service after the commencement of this Act by a local authority or by the managers or governors of a school maintained by a local education authority under the Education Act, 1944, has been employed before the commencement of this Act in any such service as is specified in the First Schedule to this Act, his said service before the commencement of this Act shall, if he makes application to the Minister for that purpose within the prescribed time and in the prescribed manner, be treated for the purposes of the principal Act as if it had been contributory service or recognised service, as the case may be:

Provided that if, upon making such an application, he requests that his service before any date specified by him shall not be treated as if it had been contributory service or recognised service, his said service before that date shall not be so treated by virtue of this section. [1423]

(2) Where an application made by a person under this section relates, whether wholly or in part, to service after the thirty-first day of May, nineteen hundred and twenty-two, he shall be liable to pay the appropriate contributions to the Minister in respect of that service in accordance with rules made by the Minister under section seventeen of the principal Act; and no service in which a person has been employed after the said date shall be treated as contributory service or as recognised service by virtue of this section unless the appropriate contributions are so paid in respect thereof. [1424]

(3) For the purposes of this section, the appropriate contributions are the contributions which would have been payable in respect of the service in question under paragraph (a) of subsection (1) of section nine of the principal Act, or under the School Teachers (Superannuation) Act, 1922, if that service had been contributory service or recognised service, as the case may be. [1425]

(4) Where a person has ceased to be employed in service which is treated as contributory service by virtue of this section in order to undertake war

service, the provisions of the Teachers Superannuation (War Service) Act, 1939, shall have effect accordingly with respect to his period of war service, including any such period which falls after the commencement of this Act. [1426]

Object of the section.—For the objects of this section, the two preceding sections, and the following section, see the notes to s. 3, *ante*.

Principal Act.—Teachers (Superannuation) Act, 1925. S. 17 empowers the Board of Education, with the consent of the Treasury and after consultation with representatives of local education authorities and of teachers affected, to make rules for carrying the Act into effect. S. 9 (1) establishes the amounts of contributions to be paid by teachers and employers.

6. Payment of employer's contributions in respect of past service which is treated as contributory service under this Act.—(1) Subject to the provisions of this section, where any period of service after the end of March, nineteen hundred and twenty-eight, including any period of war service, is treated as contributory service by virtue of the last foregoing section, the contributions (hereinafter referred to as "employer's contributions") which would have been payable in respect of that service under paragraph (b) of subsection (1) of section nine of the principal Act shall be paid to the Minister by the local authority by whom the person in question is employed in contributory service when he first becomes entitled to make an application under the last foregoing section.

For the purposes of this subsection, a person employed in contributory service by the managers or governors of a school maintained by a local education authority under the Education Act, 1944, shall be deemed to be employed by that authority. [1427]

(2) Where in accordance with the foregoing subsection any sum is paid by a local authority on account of employer's contributions in respect of a person who was, when he first became entitled to make an application under the last foregoing section, employed by the authority in their capacity as a local education authority, or employed by the managers or governors of a school maintained by the authority, the sum so paid shall, for the purposes of any regulations of the Minister relating to the payment of grants, be treated as if it were expenditure on the salary of a teacher employed by the authority. [1428]

(3) Where a person who has been a contributory employee or a local Act contributor as defined by the Local Government Superannuation Act, 1937 (hereinafter referred to as a Local Government Superannuation Act employee), becomes, not more than one year after ceasing to be a Local Government Superannuation Act employee, entitled to make an application under the last foregoing section, no employer's contributions shall be payable in respect of any service which he was, immediately before he last ceased to be a Local Government Superannuation Act employee, entitled to reckon for superannuation purposes under the said Act of 1937 or under any local Act scheme as defined by that Act. [1429]

(4) In lieu of the employer's contributions which would have been payable in respect of any service but for the last foregoing subsection, there shall be paid to the Minister in respect of that service, out of the appropriate superannuation fund, a sum equivalent to the difference between the sum which has become or will become payable out of that fund in respect of the past contributions of the person who made the application (including any sum payable as interest upon such contributions) and the transfer value which would have been payable out of that fund under section twenty-nine of the Local Government Superannuation Act, 1937, if, after he last ceased to be entitled to participate in the benefits of the fund, the said person had forthwith become entitled to participate in the benefits of some other superannuation fund maintained under that Act or under a local Act scheme as defined by that Act :

Provided that the sum paid to the Minister by virtue of this subsection in respect of any service shall not exceed the aggregate amount of the contributions which would have been payable in respect of that service under paragraph (b) of subsection (1) of section nine of the principal Act. [1430]

(5) For the purpose of the last foregoing subsection :—

- (a) the appropriate superannuation fund is the fund in the benefits of which the person in question was last entitled to participate as a Local Government Superannuation Act employee before becoming entitled to make the application under the last foregoing section ; and
- (b) the expression “ past contributions ” includes in relation to a contributory employee all such contributions as are mentioned in subsection (5) of section ten of the Local Government Superannuation Act, 1937, and, in relation to a local Act contributor, shall be construed accordingly. [1431]

(6) Where a person ceased to serve in any capacity in respect of which he was a Local Government Superannuation Act employee in order to undertake service which he was entitled to reckon for superannuation purposes by virtue of the Local Government Staffs (War Service) Act, 1939, subsections (3) (4) and (5) of this section shall have effect as if he had continued to be a Local Government Superannuation Act employee during the period of service which he was so entitled to reckon. [1432]

(7) Any reference in this section to the contributions which would have been payable in respect of the service of any person under paragraph (b) of subsection (1) of section nine of the principal Act shall, in relation to a period of war service, be construed as a reference to such contributions only as would have been payable under that paragraph in respect of his service during that period, if, at the commencement of that period, he had ceased to be employed as a teacher in contributory service in order to undertake war service. [1433]

Object of the section.—For the objects of this section and the three preceding sections, see the notes to s. 3, *ante*.

Principal Act.—Teachers (Superannuation) Act, 1925. S. 9 (1) (b) establishes the date (April 1, 1928) at which employers' contributions became payable, and the amount thereof.

Local Government Superannuation Act, 1937.—S. 29 thereof makes provision for the payment of transfer values on the transfer of officers of a local authority from local Act authorities to other authorities. S. 10 (5) enumerates certain types of payment which are to be included where reference is made in the section to the aggregate amount of an employee's contributions to a superannuation fund.

7. Provisions as to grant of a second or subsequent annual allowance.—

(1) Where, after a teacher has been in receipt of an annual superannuation allowance granted under the principal Act, another annual superannuation allowance is, after the commencement of this Act, granted to him in accordance with subsection (1) of section six of the principal Act, or has been so granted to him on or after the first day of September, nineteen hundred and thirty-nine, the amount of that other allowance shall not be less than the amount of any annual superannuation allowance previously granted to him under the principal Act. [1434]

(2) Where the sums which have accrued before the commencement of this Act on account of an allowance granted on or after the said first day of September are less than they would have been if this section had come into operation on that day, the Minister shall pay to the teacher or to his legal personal representatives a sum equal to the deficiency. [1435]

Principal Act.—Teachers (Superannuation) Act, 1925. S. 6 (1) thereof is as follows :—

“(1) If a teacher in receipt of an annual superannuation allowance is again employed in contributory service or employment which would if he were less than sixty-five years of age be contributory service, the allowance shall cease as from the date on which he becomes so employed, but without prejudice to the power of the Board in any case where

the employment does not continue for periods amounting in the aggregate to [more than twelve months] after the said date to restore the said allowance, and in any other case to grant to the teacher subsequently another annual superannuation allowance."

The words in square brackets are deleted by the present Act, and the words "at least twelve months" substituted (Schedule II, *post*).

Object of the section.—The object of this section is to provide that teachers returning to service from retirement shall not find their pensions prejudiced (407 H. of C. Official Report 1316). See also Schedule II to this Act, *post*, where a new subsection is added to s. 6 of the principal Act (*supra*), enabling the Minister to use his discretion as to disallowances; and a new subsection in similar terms is added to s. 5 of the School Teachers (Superannuation) Act, 1918, for the same purpose.

8. Right of teachers engaged in war service to require repayment of contributions.—(1) Where by virtue of section one or section nine of the Teachers Superannuation (War Service) Act, 1939, a person's period of war service is treated as if it were a period of contributory service, he may at any time during that period require the Minister to repay to him a sum equal to the balance of his contributions computed as at the date of repayment. [1436]

(2) Where any person makes such a requirement, his period of war service after the requirement is made shall not be treated as if it were a period of contributory service by virtue of the said Act of 1939. [1437]

(3) Where the balance of any person's contributions is repaid under this section, subsection (2) of section twelve of the principal Act (which relates to the effect of the repayment of the balance of any person's contributions upon the computation of the service which he is entitled to reckon as contributory service or as recognised service) shall have effect as if a repayment had been made under that section. [1438]

(4) For the purposes of this section, the expression "contributions" includes contributions paid under the School Teachers (Superannuation) Act, 1922; and the balance of a person's contributions shall be calculated for the purposes of this section as it is calculated for the purposes of section twelve of the principal Act. [1439]

9. Meaning of "period of war service" in 2 & 3 Geo. 6, c. 95.—(1) For the purposes of the Teachers Superannuation (War Service) Act, 1939, a person's period of war service includes:—

- (a) any period during which, though not actually engaged in war service, he is as a result of war service prevented or hindered from procuring work as a teacher; and
- (b) in the case of a person who, having been admitted or accepted for admission to a training college recognised by the Board of Education or the Minister for the purpose of payment of grant, undertakes war service before completing his course of training, any period during which, though not actually engaged in war service, he is as a result of war service prevented or hindered from entering upon or completing his course of training;

and in that Act the expression "period of war service" shall be construed accordingly:

Provided that a person's period of war service shall not, by virtue of this subsection, be extended by a period or periods exceeding in all fifty-two weeks, or such greater number of weeks, not being more than one hundred and four, as the Minister may in any particular case allow. [1440]

(2) The provisions of the foregoing subsection shall be deemed always to have had effect, and the definition of "period of war service" contained in section eleven of the Teachers Superannuation (War Service) Act, 1939, shall be deemed never to have had effect. [1441]

Teachers Superannuation (War Service) Act, 1939.—The present section replaces the definition of "period of war service" in s. 11 of the 1939 Act, and extends to a training college student the same treatment as is accorded to a teacher who finds himself in the position of not being able to take up teaching work as a result of war service, *e.g.*, because of injuries received during such service.

10. Actuarial inquiries.—The Treasury shall, as soon as they think practicable, and thereafter at intervals of seven years, cause an actuarial inquiry to be held for the purpose mentioned in section fifteen of the principal Act; and the said section fifteen shall have effect, and shall be deemed always to have had effect, as if the words “and at the expiration of every subsequent period of seven years” were omitted therefrom. [1442]

Principal Act.—Teachers (Superannuation) Act, 1925. S. 15 thereof provides that an actuarial enquiry shall be made every seven years for the purpose of determining whether the contributions payable under Part II thereof are sufficient, or more or less than sufficient, to support the benefits payable thereunder in respect of those contributions.

11. Miscellaneous amendments of enactments relating to superannuation of teachers.—(1) The definition of recorded service contained in subsection (5) of section one of the Elementary School Teachers (Superannuation) Act, 1898, shall have effect only in relation to service before the date of the commencement of this Act; and in relation to service on or after that date the said subsection (5) shall have effect as if for the words from the beginning of the subsection to the words “or industrial school” there were substituted the words:—

“ ‘Recorded service’ means, for the purposes of this Act, such service in the capacity of a certificated teacher in any educational establishment in respect of which grants are paid by the Minister as is recorded by the Minister for the purposes of this Act.” [1443]

(2) The definition of certificated teacher contained in section eleven of the said Act of 1898 shall have effect only in relation to periods before the commencement of this Act; and in relation to any subsequent period the expression “certificated teacher” shall, for the purposes of the said Act, mean any person who would for the time being have been recognised as a certificated teacher under the regulations of the Minister which were in force with respect to such recognition immediately before the commencement of this Act if those regulations had remained in force thereafter. [1444]

(3) In paragraph (e) of Part II of the First Schedule to the National Health Insurance Act, 1936 (which defines excepted employments for the purposes of that Act), the reference to employment as a teacher in recognised or contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1925, shall be construed as including a reference to the employment of any person in contributory service after the commencement of this Act, and, in the said paragraph (e), the reference to employment as a teacher in recorded service within the meaning of the Elementary School Teachers (Superannuation) Act, 1898, shall be construed as including a reference to employment after the commencement of this Act in service which is recorded service for the purposes of the said Act of 1898. [1445]

(4) In paragraph 6 of Part II of the First Schedule to the Unemployment Insurance Act, 1935 (which defines excepted employments for the purposes of that Act), the reference to employment as a teacher of any person who is in contributory service within the meaning of the Teachers (Superannuation) Act, 1925, shall be construed as including a reference to the employment of any person in contributory service after the commencement of this Act, and the reference in the said paragraph 6 to employment in a capacity which would be contributory service if the person concerned were under the age of sixty-five years shall be construed accordingly. [1446]

(5) In subsection (1) of section seventeen of the Local Government Superannuation Act, 1937, for the words “the Teachers (Superannuation) Acts, 1918 to 1937” there shall be substituted the words “the Teachers (Superannuation) Acts, 1918 to 1945”. [1447]

(6) The enactments specified in the first column of the Second Schedule

to this Act shall have effect subject to the amendments specified in the second column of that Schedule, so, however, that no such amendment shall effect any additional allowance or gratuity which has accrued before the date of the commencement of this Act, or any contribution or quarterly payment which has become payable before that date, or affect the question whether the power or duty to grant or restore any allowance or to make any other payment has become exercisable before that date. [1448]

Teachers (Superannuation) Acts, 1918 to 1925.—These comprise the School Teachers (Superannuation) Acts, 1918, 1922 and 1924, and the Teachers (Superannuation) Act, 1925.

Teachers (Superannuation) Acts, 1918 to 1945.—These comprise the Acts cited in the previous note, together with the Teachers (Superannuation) Act, 1935; the Teachers (Superannuation) Act, 1937; the Teachers Superannuation (War Service) Act, 1939, and the present Act. See s. 14, *post*.

12. Financial provisions.—Any expenses incurred by the Minister by reason of the passing of this Act, and any increase occasioned by the passing of this Act in sums which are defrayed out of moneys provided by Parliament, shall be defrayed out of moneys so provided; and any sums received by the Minister by reason of the passing of this Act, other than sums paid on account of contributions under the Elementary School Teachers (Superannuation) Act, 1898, shall be dealt with in the same manner as sums received by him under section nine of the principal Act. [1449]

Principal Act.—Teachers (Superannuation) Act, 1925. Under s. 9 thereof all sums received by the Minister are payable into the Exchequer.

13. Interpretation.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

- “Approved school” has the meaning assigned to it by section one hundred and seven of the Children and Young Persons Act, 1933, that is to say, means a school approved by the Secretary of State under section seventy-nine of that Act;
- “Contributory service” and “recognised service” mean respectively service which is contributory service for the purposes of the principal Act and service which is recognised service as defined by that Act;
- “Former authority” has the meaning assigned to it by the Education Act, 1944, that is to say, means any authority which was a local education authority within the meaning of any enactment repealed by that Act or any previous Act;
- “Local education authority” has the meaning assigned to it by the Education Act, 1944, that is to say, means in relation to any area for which a joint education board is constituted as the local education authority under that Act, the board so constituted, and, save as aforesaid, means, in relation to a county, the council of the county, and, in relation to a county borough, the council of the county borough;
- “Minister” means the Minister of Education;
- “Period of war service”, in relation to any person, has the same meaning as for the purposes of the Teachers Superannuation (War Service) Act, 1939;
- “Prescribed” means prescribed by rules made under section seventeen of the principal Act;
- “Proprietor”, in relation to any school, has the meaning assigned to it by the Education Act, 1944, that is to say, means the person or body of persons responsible for the management of the school;
- “Scheme of further education” means a scheme of further education having effect under section forty-two of the Education Act, 1944;

- “School”, where used without qualification, means an institution for providing primary or secondary education or both primary and secondary education ;
- “Service”, except in relation to recorded service or war service, has the meaning assigned to it by the principal Act, that is to say, means salaried employment under a contract of service with an employer of a person who at the date of the employment is over eighteen and under sixty-five years of age ;
- “Teacher” includes any person who is treated as a teacher for the purposes of the principal Act ;
- “War service” has the meaning assigned to it by the Teachers Superannuation (War Service) Act, 1939, that is to say, means service during the period beginning with the first day of September, nineteen hundred and thirty-nine, and ending with such date as may be declared by an Order in Council made for the purposes of section eleven of that Act, in any of the naval, military or air forces of the Crown, or any service during that period which the Minister considers may properly be treated for the purposes of that Act in the same manner as service in those forces. [1450]

(2) References in this Act to a person or body of persons in respect of whose expenditure grants are made by the Minister include references to a person or body of persons for the time being in receipt of financial assistance from a local education authority, if grant is made by the Minister to the authority in respect of that assistance. [1451]

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment, including this Act. [1452]

Teachers Superannuation (War Service) Act, 1939.—See, for the substituted definition of “period of war service,” s. 9, *ante*.

14. Short title, citation, commencement and extent.—(1) This Act may be cited as the Teachers (Superannuation) Act, 1945. [1453]

(2) This Act and the Teachers (Superannuation) Acts, 1918 to 1939, may be cited together as the Teachers (Superannuation) Acts, 1918 to 1945. [1454]

(3) This Act shall come into operation on the first day of April, nineteen hundred and forty-five. [1455]

(4) This Act shall not extend to Scotland or to Northern Ireland. [1456]

Teachers (Superannuation) Acts, 1918 to 1945.—See note to s. 11, *ante*.

SCHEDULES

Section 5

FIRST SCHEDULE

SERVICE BEFORE 1ST APRIL, 1945, WHICH MAY BE TREATED AS IF IT WERE CONTRIBUTORY OR RECOGNISED SERVICE

1. Full time service in or in connection with a public elementary school :—

- (a) as a supplementary teacher ;
- (b) as an additional teacher ;
- (c) as an additional woman teacher ;
- (d) as an additional female teacher.

2. Full time service in the employment of a former authority (not being service which was contributory service or recognised service) in any capacity in which it was the principal duty of the person employed therein to attend any establishment for providing social or physical training and either to provide or to supervise the provision of such training therein.

3. Full time service, on or after the first day of April, nineteen hundred and twenty-six, in the employment of a former authority, being service which satisfies the following conditions :—

- (a) that it is service of the same kind as service approved by the Minister for the purposes of subsection (1) of section two of this Act ; and
- (b) that the person employed therein was, before being so employed, employed for not less than three years, whether in England or Wales, or elsewhere and whether before the said first day of April or not, as a teacher in a capacity approved by the Minister.

4. Full time service as a teacher of such kind as may be prescribed employed by a local authority in the exercise of their functions under paragraph (cc) of section thirty of the Mental Deficiency Act, 1913. [1457]

Section 11

SECOND SCHEDULE

AMENDMENT OF ENACTMENTS

Provision to be amended

Amendment

The School Teachers
(Superannuation) Act,
1918.

Section five .. After subsection (4), there shall be inserted the following subsection :—

“(5) If the Minister is of opinion that it would be inequitable for a teacher's superannuation allowance to be suspended or reduced in accordance with the provisions of the last foregoing subsection, he may, to such extent as he thinks just, disregard for the purposes of that subsection any salary and emoluments received by the teacher in respect of any such employment as is therein mentioned.”

The Teachers (Super-
annuation) Act, 1925.

Section three .. In subsection (3), in paragraph (b) thereof, for the words “more than twelve months” there shall be substituted the words “at least twelve months”.

Section five .. After subsection (1) there shall be inserted the following subsection :—

“(1A) Where, in addition to a death gratuity payable in respect of any person under the foregoing subsection, any balance of contributions would be payable in respect of him under subsection (4) of section twelve of this Act, the death gratuity shall not be paid, and the balance of contributions shall be increased accordingly.”

Section six .. In subsection (1), for the words “more than twelve months” there shall be substituted the words “at least twelve months”.

After subsection (2), there shall be inserted the following subsection :—

“(3) If the Minister is of opinion that it would be inequitable for a teacher's superannuation allowance to be suspended or reduced in accordance with the provisions of the last foregoing subsection, he may, to such extent as he thinks just, disregard for the purposes of that subsection any salary and emoluments to which the teacher has become entitled in respect of any such employment as is therein mentioned.”

Section nine .. In subsection (3), for the words “a public elementary school maintained by the local education authority” there shall be substituted the words “a school maintained by the local education authority under the Education Act, 1944”.

Section ten .. After subsection (1) there shall be inserted the following subsection :—

“(1A) In relation to service on or after the first day of April, nineteen hundred and forty-five, paragraph (a) of the proviso to the foregoing subsection shall have effect as if for the reference therein to two thousand pounds per annum there were substituted a reference to three thousand pounds per annum.”

After subsection (2), there shall be inserted the following subsection :—

“(3) Where for the purpose of determining the amount of an allowance or gratuity which becomes payable under this Act on or after the first day of April, nineteen hundred and forty-five, the Minister has determined that the salary of the teacher has been unreasonably increased in respect of his employment during any period to be taken into account in calculating his average salary, the Minister shall determine the amount by which each contribution paid by the teacher in respect of that period would have been reduced if his salary had not been so increased, and shall repay that amount to the teacher or to his legal personal representatives together with compound interest thereon up to the date of repayment; and for the purpose of calculating the balance of a teacher's contributions in accordance with the provisions of section twelve of this Act the amount of any such contribution as aforesaid shall be deemed to be reduced by the amount so repaid.”

Section twelve .. In subsection (1), for the words from “one year” to the words “may prescribe” there shall be substituted the words “three months”.

The Teachers (Superannuation) Act, 1937.

Section two .. After subsection (1), there shall be inserted the following subsection :—

“(1A) If the employment of a teacher in contributory service has been discontinued for any period not exceeding five years beginning on or after the first day of January, nineteen hundred and forty-two, and the Minister is satisfied that, during that period, the teacher has been engaged in some other employment which provides experience of value to teachers, the Minister may direct that in relation to the said discontinuance paragraph (b) of the foregoing subsection shall have effect as if for the reference therein to one year there were substituted a reference to such period not exceeding five years as may be specified in the direction.”

The Teachers Superannuation (War Service) Act, 1939.

Section two .. In subsection (5), after the words “contributory service” there shall be inserted the words “but if, after the conclusion of his period of war service, he has spent any period (whether before the first day of April, nineteen hundred and forty-five or not) completing his course of training, that period shall be treated for the purposes of Part II of the principal Act as if it had been a period of contributory service”. [1458]

ORDERS, CIRCULARS AND MEMORANDA

THE INCREASE OF PENSIONS (GENERAL) (AMENDMENT) REGULATIONS, 1945

S. R. & O., 1945, No. 449

April 26, 1945

The Lords Commissioners of His Majesty's Treasury, in pursuance of Their powers under subsection (5) of Section 3 of the Pensions (Increase) Act, 1944, and of all other powers enabling Them in that behalf hereby make the following Regulations :—

1.—(1) In these Regulations “The Principal Regulations” means the Increase of Pensions (General) Regulations, 1944.

(2) These Regulations shall be construed as one with the Principal Regulations.

(3) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1459]

2.—(1) Where a pensioner who has fulfilled the prescribed conditions for any period after the 31st day of December, 1943, dies (whether before or after the date of these Regulations) and at the time of his death a grant of the increase of pension for which he was eligible under the Act had not been made to him or an adjustment of increase already granted was outstanding the Pension Authority shall, for the purposes of the grant of an increase or an adjustment thereof up to the time of his death, accept, in place of the application declaration and evidence which was, or might have been, required from the deceased pensioner under the Principal Regulations, an application or declaration made or evidence produced on the deceased pensioner's behalf by his legal personal representative or by any person from whom the Pension Authority may obtain a discharge for payment of the increase.

(2) Where any dependant of a pensioner dies (whether before or after the date of these Regulations) without having made the declaration or produced the evidence required of him under the Principal Regulations, the Pension Authority shall, for the purposes of the grant of an increase to the pensioner or an adjustment thereof, accept, in place of such declaration or evidence, a declaration made or evidence produced by the legal personal representative of the dependant or by any other person who appears to the Authority a proper person to represent the deceased dependant.

(3) Any declaration made on behalf of a deceased pensioner or dependant under these Regulations, other than as to the amounts of income, shall be made by reference to the circumstances existing at the date of death. [1460]

3.—(1) Where a pensioner and his wife, or her husband, are living apart then if

(a) the pensioner gives notice in writing to the Pension Authority electing that they shall be treated as unmarried persons for the purposes of the Act, and

(b) it appears to the Pension Authority

(i) that the separation has continued for not less than twelve months and is likely to be permanent and

(ii) that the pensioner's wife or husband either is not in receipt of a pension which may be increased under the Act or, if in receipt of such a pension, is willing, as regards the increase of her or his pension, to be treated in accordance with this Regulation as unmarried for the purposes of the Act they shall, subject to the

provisions of this Regulation, be treated as unmarried persons for the purposes of the Act as from the beginning of the period falling after the expiration of the twelve months mentioned in (i) of sub-paragraph (b) for which an increase is or has been payable under the Act or the date (not being after the date on which the notice of election is given) specified in the pensioner's notice of election, whichever is the later.

A pensioner may give notice of election under this paragraph notwithstanding that he has been granted an increase of pension under the Act as a married person.

(2) If an increase of pension is granted to a pensioner on the basis that the pensioner and his wife or her husband are treated as unmarried persons for the purposes of the Act, and subsequently it appears to the Pension Authority that the conditions mentioned in (i) and (ii) of sub-paragraph (b) of paragraph (1) of this Regulation cease to be fulfilled or have never been fulfilled, then, as from the appropriate date, the increase shall cease or shall be subject to such adjustment, if any, as the case may require.

(3) A pensioner who gives notice of election under paragraph (1) of this Regulation shall, in so far as the evidence or information is not contained in the Declaration made by him under Regulation 5 of the Principal Regulations,

(a) inform the Pension Authority whether, to the best of his knowledge and belief, his wife or her husband is in receipt of a pension which may be increased under the Act and, if so, give the name of the Pension Authority by whom the wife's or husband's pension is payable;

(b) furnish to the Pension Authority such evidence as the Pension Authority may require as to the matters mentioned in sub-paragraph (b) of paragraph (1) of this Regulation.

Any evidence or information furnished under this Regulation shall, if the Pension Authority so requires, be in the form of a declaration and shall be subscribed before and attested by one of the parties prescribed in the Second Schedule to the Principal Regulations.

(4) Any Declaration by or on behalf of a pensioner may continue to be made on the form prescribed by Regulation 5 (1) of the Principal Regulations, but no information need be given as to whether the pensioner or his wife or her husband is benefiting from the income of the other.

(5) If it appears from any Declaration made by or on behalf of a pensioner that the pensioner is living apart from his wife or her husband and that the separation is likely to be permanent but no notification as to the provisions of this Regulation has been made on, or attached to, the form of Declaration, the Pension Authority shall call the attention of the person by whom the Declaration was made to the provisions of the new Regulation.

(6) Regulation 13 of the Principal Regulations is hereby revoked. [1461]

4.—(1) Where an increase of pension granted under the Act is to cease or to be adjusted by reason of the occurrence of any event the appropriate date shall be the date on which the event occurred, provided that the appropriate date shall be the date on which the occurrence of the event first came to the knowledge of the Pension Authority if

(a) the pensioner has not been responsible for any unreasonable delay in notifying the Pension Authority of the occurrence of the event, and

(b) that date is more favourable to the pensioner.

(2) Where an increase of pension granted under the Act is to cease or to be adjusted by reason that certain conditions have never been fulfilled, the appropriate date shall be the beginning of the period in respect of which the increase was granted. [1462]

5. The following minor amendments shall also be made to the Principal Regulations, that is to say :—

- (a) there shall be inserted at the end of paragraph (b) of Regulation 8 the words “ or, if the pensioner and his wife or her husband have been treated as unmarried persons for the purposes of the Act, their resumption of cohabitation or the receipt by the wife or husband of a pension which may be increased under the Act ” ; and
- (b) in paragraph (e) of Regulation 8 the words from “ and excluding ” to the end shall be omitted and there shall be substituted therefor the words “ and otherwise in accordance with the Increase of Pensions (Calculation of Income) Regulations, 1944, as amended from time to time.” [1463]

6. These Regulations may be cited as the Increase of Pensions (General) (Amendment) Regulations, 1945, and these Regulations and the Principal Regulations may be cited together as the Increase of Pensions (General) Regulations, 1944 and 1945. [1464]

* * * * *

Circular 108/45

County Councils
County Borough Councils
Metropolitan Borough Councils
County District Councils
Joint Boards and Catchment Boards
Assessment Committees
Visiting Committees
Joint Committees

MINISTRY OF HEALTH,
 WHITEHALL, LONDON,
 S.W.1.

11th June, 1945

Pensions (Increase) Act, 1944

SIR,

I am directed by the Minister of Health to refer to Circular 80/44 of the 19th July, 1944, which deals with the provisions of the Pensions (Increase) Act, 1944, and certain regulations made thereunder, as they affect local authorities, and to draw the attention of your Authority to the accompanying copy of The Increase of Pensions (General) (Amendment) Regulations, 1945, made by the Treasury under section 3 (5) of the Act.

A summary of the provisions of these Regulations and of the action thereon which the pension authority will need to take, is appended to this circular : the summary is not intended to be more than a general indication of the purpose and effect of the Regulations, the terms of which should be carefully studied.

An additional copy of this circular, and enclosure, is forwarded for the information of the Financial Officer and further copies may be purchased from H.M. Stationery Office, or through any bookseller. [1465]

I am, Sir, etc.

* * * * *

The Clerk to the Authority.

APPENDIX

THE INCREASE OF PENSIONS (GENERAL) (AMENDMENT) REGULATIONS, 1945

1. *Regulation 2* provides that where a pensioner dies (whether before or after the date of the new Regulations) and at the time of his death a grant of the increase of pension for which he was eligible had not been made to him or an adjustment of an increase already granted was outstanding, the Pension Authority shall accept, in place of the particulars which were or might have been required from the deceased person under the earlier Regulations, similar particulars supplied or produced by the legal personal representative of the

deceased or by any person from whom the Pension Authority may obtain a discharge for payment of the increase. Similar provision is made as respects the particulars required under the earlier Regulations where any dependant of a pensioner dies (whether before or after the date of the new Regulations).

2. *Regulation 3* modifies the arrangements previously applicable to a pensioner who is separated from his wife (or her husband). No. 13 of the general Regulations dated 16th June, 1944, provided as follows :—

“Where it is shown to the satisfaction of the Pension Authority

(a) that the pensioner and his wife, or her husband, are living apart, and

(b) that the separation has continued for not less than twelve months and is likely to be permanent, and

(c) that neither party is benefiting from the income of the other,

the pensioner shall for the purposes of the Act be treated as unmarried.”

3. It has been found that condition (c) gave rise to difficulties when the pensioner was paying alimony to his wife (often under an Order in Court or a binding contract). Sometimes the pensioner was unable to state what was his wife's income and was consequently unable to qualify for any increase of his pension. It is moreover very much a matter of chance whether it pays a particular pensioner best to be treated as married or to be treated as unmarried.

4. It has accordingly been decided to revoke Regulation 13 and in lieu to give a pensioner who is separated from his (or her) spouse, and who can satisfy the Pension Authority that the separation has continued for not less than twelve months and is likely to be permanent, an option to be treated as unmarried.

5. In view, however, of the terms of Section 3 (5) (d) of the Act, if both spouses have pensions which are increasable under the Act, then both must be treated as married or both as unmarried. Accordingly, before a Pension Authority can treat a pensioner as unmarried under Regulation 3, the Authority will need to be satisfied either that the pensioner's spouse has not got an increasable pension, or, alternatively, that the spouse is also willing to be treated as unmarried for pension increase purposes.

6. The existing forms of declaration, as prescribed in the original Regulations, will, of course, need to be modified for a pensioner who wishes to be treated as unmarried under the new Regulation. Paragraphs (4) and (5) of the Regulation have, however, been inserted to avoid the necessity for scraping and re-printing the existing supply of forms. If any of the declarations already made indicate that the pensioner is living apart from his or her spouse and that the separation is likely to be permanent, then the Pension Authority should draw the attention of the pensioner to the provisions of the new Regulation, so that the pensioner, if eligible under the Regulation, may have an opportunity of electing to be treated as unmarried. If it appears from the information given by the pensioner in accordance with paragraph (3) of the Regulation that his or her spouse has an increasable pension paid by some other Pension Authority, the first Authority should, of course, communicate with the second Authority to ascertain whether the spouse is also willing to be treated as unmarried.

7. It will be noted that the increase of pension on the unmarried basis is not to start until the spouses have been separated for a period of twelve months, and may, if the pensioner so elects, start from a subsequent date not later than the date on which the notice of election is given.

8. Paragraph (2) of the Regulation provides for the pensioners to return to the married basis in the event, for example, of their ceasing to be separated, and in that event the pension increase is to be subject to any necessary adjustment from “the appropriate date.” This last phrase, which also appears in

paragraph (2) of Regulation 7 of the original Regulations, is now defined in the new *Regulation 4* in such a way as to give the Pension Authority discretion to make the adjustment from some later date than the date of the occurrence of the event (e.g. resumption of co-habitation) which led to the pensioners being again treated as married, provided that the Pension Authority is satisfied that there has been no unreasonable delay in the notification of the occurrence of the event. This latitude has been provided to obviate the necessity for recovering small over-payments which a pensioner may have accepted in good faith. [1466]

CASES

Local Government—Superannuation—“Interim registrar” of births and deaths—Originally contributory employee as Poor Law Officer—Request for assurance that superannuation rights protected on change of appointment—No reply to request—Estoppel—Contributory employee since commencement of appointment as “interim registrar”—Births and Deaths Registration Act, 1874 (c. 88), ss. 24, 25—Local Government Act, 1929 (c. 17), ss. 21, 22, 119—Local Government Superannuation Act, 1937 (c. 68), ss. 3 (2) (d), 27 (1), 35.

The applicant was an assistant collector to the Willesden Board of Guardians and, by the Local Government Act, 1929, s. 119, he was transferred to and became an officer of the respondents, the Middlesex County Council, as from April 1, 1930. He exercised the option given to him by s. 124 of the 1929 Act of remaining subject to the provisions of the Poor Law Officers' Superannuation Act, 1896, for superannuation purposes. From the time he was transferred to the service of the respondents the applicant continued as an assistant collector in the finance department of the respondents, and also held the office of deputy registrar of births and deaths for the Harlesden registration sub-district, to which he had been appointed on January 10, 1914, by the registrar of births and deaths, who was also a vaccination officer. On September 30, 1938, the registrar resigned his office and, in accordance with the Births and Deaths Registration Act, 1874, s. 25, the applicant became “interim registrar” of births and deaths. On September 12, 1938, the respondents wrote to the applicant in reference to his continuing to act as interim registrar until the respondents' scheme for the revision of registration districts came into operation; and by letter dated September 16, 1938, the applicant agreed to this proposal on the understanding that he would be granted leave of absence from his office as assistant collector during the period of his duties as “interim registrar” and at the same time he asked for an assurance that his superannuation rights would be protected. There was no reply to the applicant's letter. On September 28, 1938, the Registrar-General wrote to the applicant notifying him that as from October 1, 1938, he was to carry out all the duties of an interim registrar until further notice. The applicant also became temporary vaccination officer as from October 1, 1938, and, only as such, he was in the employment of the respondents and pensionable as a contributory employee under the Local Government Superannuation Act, 1937, as applicable to a transferred Poor Law employee, and the period of service in this capacity from October 1, 1938, to April 1, 1939, was to be reckoned for superannuation purposes. By notice dated April 28, 1939, served upon the applicant by the respondents and purporting to be given pursuant to regulations made by the Minister of Health under the Local Government Superannuation Act, 1937, the applicant was informed that on April 1, 1939, the 1937 Act became applicable to him and that he would be a contributory employee for the purposes of that Act. A letter dated November 28, 1940, was written by the Middlesex County accountant to the applicant stating that, until a ruling had been obtained from the

Minister of Health regarding the application of the 1937 Act to the applicant's appointment as interim registrar, contributions to the superannuation fund could not be accepted, and that contributions paid by the applicant since his appointment were being returned to him. This question was referred to the Minister and subsequently the respondents decided that as interim registrar the applicant was not superannuable under the 1937 Act as a contributory employee. The questions for the determination of the court were (i) whether the applicant in respect of his office as interim registrar of births and deaths was a contributory employee within the meaning of the Local Government Act, 1937, s. 3 (2) (d); (ii) whether as between the applicant and the respondents, the respondents were not estopped by their conduct, in relation to the terms upon which the applicant accepted his appointment as interim registrar and to the circumstances in which he continued in such appointment after April 1, 1939, from relying on such facts (if any) as tended to establish that the applicant was not entitled to the benefits of the respondents' superannuation fund :—

Held : (i) the word "interim" as part of the description of an appointment, did not qualify the position of an appointee but limited the time for which he was appointed. From the date when the applicant became "interim registrar" he was performing all the functions attaching to the office of registrar of births and deaths; and, although he had remained so ever since, he was a contributory employee with a right to participate in the benefits of the appropriate superannuation fund under Part I of the Local Government Superannuation Act, 1937.

(ii) by their conduct the respondents had allowed the applicant to alter his position on the assumption that his superannuation rights were assured. The respondents, therefore, were estopped from relying on any facts which would tend to establish that the applicant was not entitled to the benefits of their superannuation fund.

De Tchihatchef v. Salerni Coupling, Ltd., [1932] 1 Ch. 330, *applied*.—*ALGAR v. MIDDLESEX COUNTY COUNCIL*, [1945] 2 All E. R. 243; 173 L. T. 143; 109 J. P. 213; 89 Sol. Jo. 371; 43 L. G. R. 155, D. C. [1467]

TOWN AND COUNTRY PLANNING

	PAGE		PAGE
ORDERS, CIRCULARS AND MEMORANDA :—		Orders and Notices) Regulations, 1945	481
Town and Country Planning (General Interim Development) Order, 1945	460	Acquisition of Land (Compensation for War Damaged Land) Rules, 1945	499
Acquisition of Land (Valuation for Supplemental Compensation) Regulations, 1945	471	Town and Country Planning (General Transitional) Amendment Order, 1945	510
Town and Country Planning General (Interim Development) Direction, 1945	474	Town and Country Planning Amendment Regulations (No. 2), 1945	511
Town and Country Planning (Development by Authorities) Regulations, 1945	475	Town and Country Planning Act, 1944, Compulsory Purchase (Appointed Day) Order, 1945	512
Town and Country Planning Amendment Regulations, 1945	476	Town and Country Planning Act, 1944 (Registration of Orders) Rules, 1945	512
Acquisition of Land (Owner-Occupier) Regulations, 1945	477	Circular 11: Town and Country Planning Act, 1944	516
Town and Country Planning Act, 1944, Compulsory Purchase (Contemporaneous Procedure) Regulations, 1945	481	Circular 12: Town and Country Planning Act, 1944	517
Town and Country Planning Act, 1944 (Particulars and Form of		Circular 18: Sale of Land for Building Purposes: Enquiries before Purchase to ascertain the position under the Planning Acts	525

ORDERS, CIRCULARS AND MEMORANDA

THE TOWN AND COUNTRY PLANNING (GENERAL INTERIM DEVELOPMENT) ORDER, 1945

S. R. & O., 1945, No. 349

March 27, 1945

ARRANGEMENT OF ARTICLES

Preliminary

1. Application, citation and operation.
2. Interpretation.

Interim Development Authorities

3. Authorities empowered to grant permission for development.

Permitted Development

4. Permitted development.
5. Power to exclude certain development from permitted development in particular areas.
6. Power to exclude certain development from permitted development in particular cases.

Restrictions upon refusal of permission and imposition of conditions

7. Applications relating to buildings by persons having statutory powers.
8. Applications relating to works for making good war damage.
9. Applications relating to buildings by mining undertakers, etc.

Provisions as to applications for permission

10. Form of applications for permission.
11. Special types of applications.
12. Form of grant and refusal of permission.
13. Consultation.
14. Power to suspend local Acts, etc.

Supplementary provisions

15. Provisions as to London.
16. Powers of Minister.
17. Cancellation and variation of directions.
18. Service of notices.
19. Revocation of previous interim development orders, and saving. Schedule.

In exercise of the powers conferred on him by section ten of the Town and Country Planning Act, 1932, as amended by the Town and Country Planning (Interim Development) Act, 1943, The Town and Country Planning Act, 1944, and of all other powers enabling him in that behalf, the Minister of Town and Country Planning (in this order referred to as "the Minister") hereby orders as follows :—

Preliminary

1.—(1) This order shall apply to all land in England and Wales in respect of which a resolution is for the time being in force :

Provided that in the event of a special interim development order being made in relation to any such land, this order shall apply thereto to such extent only and subject to such modifications as may be specified in the special order.

(2) This order may be cited as the Town and Country Planning (General Interim Development) Order, 1945.

(3) This order shall come into force on the first day of May, nineteen hundred and forty-five, and shall, unless previously revoked, cease to have effect on the date on which the Emergency Powers (Defence) Act, 1939, expires. [1468]

2.—(1) In this order, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively :—

“ The Act ” means the Town and Country Planning Act, 1932, as amended by the Town and Country Planning (Interim Development) Act, 1943 :

“ Existing building ” means a building erected or constructed before the resolution date, or begun before and completed after that date, or erected or constructed in pursuance of a contract made before that date, or erected or constructed in accordance with permission granted by or under this order or any previous interim development order :

“ Government department ” includes the Electricity Commissioners :

“ Highway ” means a highway repairable by the inhabitants at large :

“ Interim development authority ”, in relation to any land, means the authority empowered by this order to permit the development of that land :

“ Local authority ” means, in addition to a local authority as defined by the Act, anybody having power to levy a rate or to issue a precept to a rating authority, and includes the Receiver for the Metropolitan Police District, and the Sussex Police Authority :

“ Mining undertakers ” includes undertakers engaged in the winning or working of minerals, whether by underground or surface working, and undertakers licensed under the Petroleum Production Act, 1934, to search and bore for and get petroleum ; and for the purposes of this order any land in respect of which a licence is in force under the said Act authorising any undertakers to search and bore for and get petroleum shall be deemed to be comprised in their undertaking :

“ Resolution ” means a resolution to prepare or adopt a scheme, and “ resolution date ” means the date on which a resolution took effect or is deemed to have taken effect :

“ Scheme ” means a scheme under the Act, other than a supplementary scheme or a scheme varying an existing scheme :

“ War damage ” has the same meaning as in the War Damage Act, 1943.

(2) References in this order to a resolution shall be construed as including references to an application or resolution which has effect under section fifty-two of the Act as if it were a resolution as defined by this order, and any reference in this order to the local authority by whom a resolution was passed shall be construed accordingly.

(3) For the purposes of this order development shall be deemed to be sanctioned by a government department if—

- (a) any consent, authority or approval to or for the development is granted by the department in pursuance of any enactment ; or
- (b) a compulsory purchase order is confirmed by the department authorising the purchase of land for the purpose of the development ; or
- (c) consent is granted by the department to the appropriation of land for the purpose of the development or to the acquisition of land by agreement for that purpose ; or

- (d) authority is given by the department for the borrowing of money for the purpose of the development, or for the application for that purpose of any money not otherwise so applicable ; or
- (e) any undertaking is given by the department to pay a grant in aid in respect of the development in accordance with any enactment authorising the payment of such grants ;
- (f) the development is for the purposes of the metropolitan police, the Sussex police force or any county police force, and is approved by one of His Majesty's Principal Secretaries of State.

and any reference in this order to an application for the sanction of a government department in respect of any development shall be construed accordingly.

For the purposes of this paragraph any consent, authority or approval given to a standing joint committee shall be deemed to have been given to the county council of the county for which the standing joint committee is appointed.

(4) The Interpretation Act, 1889, shall apply to the interpretation of this order as it applies to the interpretation of an Act of Parliament. [1469]

Interim Development Authorities

3. Subject as hereinafter provided, permission for the development of land to which this order applies may be granted—

- (a) in the case of land comprised in a resolution passed or deemed to have been passed by a county council, other than the London County Council, or by a joint committee, by the council of the county borough or county district in which the land is situated ;
- (b) in the case of any other land, by the local authority by whom the resolution was passed or is deemed to have been passed :

Provided that where immediately before the commencement of this order, any other authority specified in a special order in force or in a special order revoked by the Town and Country Planning (General Interim Development) Order, 1933, were empowered to permit the development of any such land, permission for the development of that land may be granted under this order by that authority. [1470]

Permitted Development

4.—(1) Subject to the subsequent provisions of this order, development of the following classes may be undertaken upon land to which this order applies without the permission of the interim development authority, that is to say :—

Class I—Development authorised by any Act, or by any order approved by both Houses of Parliament, or carried out under powers conferred by an order made by or requiring confirmation by or the approval of a Government Department, being an Act or order which specifically designates the land upon which the development may be carried out, except the erection, alteration or extension of buildings (including bridges and dams but not including any other structures or erections) ;

Class II—Development by a local authority or by statutory undertakers which has been sanctioned before the commencement of this order by any government department ;

Class III—The rebuilding, restoration or replacement of buildings and plant which have sustained war damage, except operations involving an increase in the cubic content of any building as it existed immediately before the occurrence of the damage, or a material alteration of the exterior of any such building ;

Class IV—The carrying out of alterations to existing buildings and of operations required for the maintenance of existing buildings except alterations affecting the exterior of, or required in connection with an alteration of the use of, any building ;

Class V—Development of any description specified in Part I of the Schedule to this order.

Provided that as respects development of Class V the winning or working of minerals by surface working shall not be undertaken without permission until the expiration of a period of six months from the date of the coming into operation of this order, except as the Minister may otherwise direct in any case or class of case.

(2) For the purposes of this Article any development authorised by an Act or order subject to the grant of any consent or approval shall not be deemed to be so authorised unless and until that consent or approval is obtained ; and in relation to development authorised by any Act passed or order made, confirmed or approved after the commencement of this order, the foregoing provisions of this Article shall have effect subject to any provision to the contrary contained in the Act or order.

(3) Without prejudice to the foregoing provisions of this Article, where a scheme in respect of any land to which this order applies has been laid before both Houses of Parliament and is capable of coming into operation, any development permitted by the scheme (other than development in respect of which the consent of the responsible authority would be required thereunder) may be undertaken on the land without the permission of the interim development authority. [1471]

5.—(1) If as respects any area the interim development authority are satisfied that it is expedient, having regard to any proposals for the redevelopment of that area or to any other special circumstances affecting that area, that development of any description specified in paragraph (1) of Article 4 of this order should not be undertaken in that area unless permission therefor is granted on application made under this order, they may, with the consent of the Minister, direct that the provisions of the said paragraph shall not apply to development of that description within that area.

(2) A direction under this Article may relate to development of any one or more of the classes specified in paragraph (1) of the said Article 4, or to development of any particular description comprised in any of those classes :

Provided that no such direction shall have effect in relation to the following development, that is to say :—

- (a) in the case of development of Class I, development authorised by any Act passed after the commencement of this order, or any order approved by both Houses of Parliament or made by or requiring confirmation by or the approval of a Government Department, after that date ;
- (b) in the case of development of Class III, the restoration or replacement of plant, the carrying out of operations immediately necessary in consequence of war damage for avoiding danger to health or preventing the deterioration of any building or otherwise required for temporarily meeting the circumstances created by the damage, and the carrying out of any operations for the rebuilding, restoration or replacement of buildings which have sustained war damage the cost of which does not exceed such amount as may be specified, in relation to operations of that description, in the direction ;
- (c) in the case of development of Class IV, the carrying out of alterations to, or operations required for the maintenance of, any building the cost of which does not exceed such amount as may be specified, in relation to buildings of that description, in the direction ;

- (d) in the case of development of Class V, the carrying out in case of emergency of any development of that class, or the carrying out of development of any description specified in the first column of Part II of the Schedule to this order to the extent specified in relation thereto in the second column of that Part.

(3) Where any direction is given under this Article with respect to any area, the interim development authority shall publish in at least one newspaper circulating in the locality in which that area is situated, and on the same or a subsequent date shall also publish in the London Gazette, a notice of the direction containing a concise statement of the effect of the direction and naming a place where a copy thereof and of a map defining the area to which it relates may be seen at all reasonable hours ; and any such direction shall come into force on the date on which notice thereof is published in the London Gazette, but without prejudice to anything done before that date or to the making of an application under this order for permission for development of any description to which the direction relates. [1472]

6.—(1) If in any particular case the Minister is satisfied, whether upon representations made by the interim development authority or otherwise, that it is expedient having regard to the provisions which in his opinion are likely to be or ought to be included in the scheme that any development by a local authority or by statutory undertakers, being development of Class II and not being development of any other class specified in paragraph (1) of Article 4 of this order, should not be undertaken unless permission therefor is granted on application made under this order, he may direct that the provisions of the said paragraph shall not apply to that development.

(2) If in any particular case the interim development authority are satisfied that it is expedient having regard to the provisions proposed to be included in the scheme that any development, being development of Class III and not being development of any other class specified in paragraph (1) of Article 4 of this order, should not be undertaken unless permission therefor is granted on application made under this order, they may direct that the provisions of the said paragraph shall not apply to that development :

Provided that no such direction shall have effect—

- (a) in relation to the restoration or replacement of plant or to the carrying out of operations immediately necessary in consequence of war damage for avoiding danger to health or preventing the deterioration of any building or otherwise required for temporarily meeting the circumstances created by the damage ;
- (b) in relation to any development on land comprised in an area in respect of which a direction under Article 5 of this order is in force with respect to development of Class III.

(3) Where a direction is given under this Article, the interim development authority shall serve notice thereof—

- (a) in the case of a direction under paragraph (1) of this Article, on the local authority or statutory undertakers concerned ;
- (b) in the case of a direction under paragraph (2) of this Article, on the owner and occupier of the land affected.

and in the latter case shall also serve a copy of the notice on the War Damage Commission ; and every such direction shall come into force on the date on which notice thereof is so served, but without prejudice to anything done before that date or to the making of an application under this order for permission for the development to which the direction relates. [1473]

Restrictions upon refusal of permission and imposition of conditions

7. Where application is made in accordance with the provisions of this order for permission for the erection of a building to be erected under powers conferred by any Act or any order approved by both Houses of Parliament, or made by or requiring confirmation by or the approval of a Government Department, being an Act or order which specifically designates the land upon which those powers may be exercised, or for the alteration or extension of a building in the exercise of such powers, the interim development authority shall not refuse permission, and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground—

- (a) that the design or external appearance of the building as proposed to be erected, altered or extended, would seriously injure the amenity of the neighbourhood, and is reasonably capable of modification ; or
- (b) that the proposed building or extension ought to be, and can reasonably be, situated elsewhere upon the land,

or unless the land is comprised in an area in respect of which a direction under Article 5 of this order is in force with respect to development of Class I. [1474]

8. Where application is made in accordance with the provisions of this order for permission for the rebuilding, restoration or replacement of any building not involving an increase in the cubic content of such building, which has sustained war damage, the interim development authority shall not refuse permission, and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground—

- (a) that the design or external appearance of the building would seriously injure the amenity of the neighbourhood, and is reasonably capable of modification ; or
- (b) that the building would not conform with a provision intended to be included in the scheme for fixing, in relation to a street or proposed street, a line beyond which no building may project ; or
- (c) that the building or the proposed use thereof would conflict with provisions intended to be included in the scheme for the reservation of the land or for regulating the use of the buildings permitted thereon, and that it would be necessary in the interests of the scheme to secure the removal or alteration of the building or prohibit the use,

or unless the building is comprised in an area in respect of which a direction under Article 5 of this order is in force with respect to development of Class III. [1475]

9. Where application is made in accordance with the provisions of this order—

- (a) by mining undertakers for permission for the erection upon land comprised in their undertaking of any building required in connection with the winning, working, treatment or disposal of minerals ; or
- (b) by any person for permission for the erection on a site in the immediate vicinity of a pit head of any building in respect of which a grant has been or is to be made out of the Miners' Welfare Fund constituted under section twenty of the Mining Industry Act, 1920,

or for the alteration or extension of any building, the interim development authority shall not refuse permission, and shall not impose conditions upon the grant thereof, unless they are satisfied that it is expedient so to do on the ground—

- (i) that the design or external appearance of the building as proposed to be erected, altered or extended, would seriously injure the amenity of the neighbourhood, and is reasonably capable of modification ; or
- (ii) that the proposed building or extension ought to be, and can reasonably be, situated elsewhere upon the land of the undertakers, or, as the case may be, elsewhere upon that site,

or unless the land or site is comprised in an area in respect of which a direction under Article 5 of this order is in force with respect to development of any description specified in paragraph 5 of Part I of the Schedule to this order. [1476]

Provisions as to applications for permission

10. Subject to the provisions of this Article and to the subsequent provisions of this order, any person who desires to apply for permission under this order shall apply in writing to the interim development authority and shall furnish to the authority, together with his application, a plan in triplicate sufficient to identify the land to which the application relates (hereinafter called a "site plan") and particulars, illustrated by plans and drawings in triplicate, sufficient to show the proposed development :

Provided that it shall not be necessary to furnish plans and drawings, other than a site plan, in any case where the proposed development is sufficiently described by the particulars together with the site plan, or where the application is expressed to be an application for general permission conditional on the subsequent approval by the authority, or by the Minister on appeal, of the particulars of the proposed development. [1477]

11.—(1) Where the interim development authority are also the authority—

- (a) to whom plans of streets or buildings are required to be submitted under any byelaws, regulations or local Acts in force in the district ; or
- (b) whose approval is required under any enactment or statutory order for the carrying out of works by statutory undertakers,

any such submission or any application for any such approval made in respect of any development (not being development which is permitted by this order, or in respect of which an application for permission has otherwise been made under this order) shall, if accompanied by such particulars, plans and drawing as are required in the case of an application for permission under this order, be deemed to constitute such application, and shall be dealt with accordingly .

(2) If in relation to any proposed development in respect of which an application for permission is required under this order there is served on the interim development authority—

- (a) notice of any application made by a local authority or by statutory undertakers for the sanction of a government department in respect of that development ; or
- (b) a copy of a certificate issued by any government department for the purposes of this order certifying that that development is immediately required for any of the purposes set out in subsection (1) of section one of the Emergency Powers (Defence) Act, 1939,

the notice or copy shall be deemed to constitute a sufficient application under this order for permission for that development, and subject to any directions given by the Minister under section six of the Town and Country Planning (Interim Development) Act, 1943, shall be dealt with by that authority accordingly.

For the purposes of this paragraph any application for sanction made

by a standing joint committee shall be deemed to have been made on behalf of the county council of the county for which the standing joint committee is appointed. [1478]

12. The grant or refusal by an interim development authority of permission to develop land shall be in writing and, where the authority decide to grant permission subject to conditions, or to refuse permission, the reasons for their decision shall be stated in writing. [1479]

13. An interim development authority shall, in connection with the determination of any application made to them in accordance with the provisions of this order, consult with the following authorities or persons, that is to say :—

- (a) where the interim development authority are the county council, the council of the district in which the land to which the application relates is situated ;
- (b) where the interim development authority are not the county council, and the power to prepare a scheme for an area comprising the land to which the application relates has been relinquished to the county council, or the development to which the application relates would affect a road or proposed road for which the county council are the highway authority or are likely to become the responsible authority under the scheme, the county council ;
- (c) where it appears to the interim development authority that the development to which the application relates would be likely to affect land in the area of any other interim development authority, or land comprised in a scheme made under the Act or any Act repealed by the Act, that other authority or, as the case may be, the responsible authority under the scheme ;
- (d) where the interim development authority are a constituent member of a joint committee, that joint committee ; and
- (e) any authority or person specified in any direction given by the Minister :

Provided that any authority specified in paragraphs (a) to (d) of this Article may give notice to the interim development authority stating that during the continuance in force of the notice they do not require to be consulted in any case or class of case and the provisions of this Article shall have effect subject to any such notice. [1480]

14. Subject to the provisions of the Act, an interim development authority may, in any case in which it is expedient in order to promote any development permitted by or under this order, by order made with the consent of the Minister suspend the operation of any enactments contained in local Acts and of any orders, byelaws or regulations under whatever authority made. [1481]

Supplementary provisions

15.—(1) The following are the classes of applications made to the London County Council under this order for permission to develop land in respect of which notice in accordance with the provisions of subsection (3) of section fifty of the Act is to be given to the council of the metropolitan borough in which the land is situated, that is to say :—

- (a) applications for permission to develop where the development would materially conflict with existing development in the locality, and
- (b) applications for permission to develop in any part of a metropolitan borough in respect of which the council of the borough have notified the London County Council that they propose to construct or widen streets.

Provided that it shall not be necessary to give notice to the council of a metropolitan borough, if the development is in accordance with proposals agreed between that council and the London County Council.

(2) Before suspending the operation of any enactment, order, byelaw or regulation under the powers conferred by this order in respect of land in a metropolitan borough, the London County Council shall give notice to the council of that borough of the proposed suspension, except where the enactment, order, byelaw or regulation has been previously suspended under the powers aforesaid in respect of land in that borough which is proposed to be included in the scheme and the object of the proposed suspension is to permit a departure from the enactment, order, byelaw or regulation not greater than was permitted by the previous suspension. [1482]

16. If it appears to the Minister that any direction ought to be given, or any notice published or served, by an interim development authority under Article 5 or Article 6 of this order, he may give notice to that authority requiring them to take such action for the purpose as may be specified in the notice; and if any such notice is not complied with within the time specified in that behalf therein, the Minister may himself take that action on behalf of the interim development authority. [1483]

17. Any power conferred by this order to give a direction shall be construed as including power to cancel or vary the direction by a subsequent direction. [1484]

18. Any notice to be served or given under this order may be served in the manner prescribed in the regulations made under the Act with respect to the service of notices under those regulations. [1485]

19.—(1) The Town and Country Planning (General Interim Development) Order, 1933, and all special interim development orders made under section ten of the Act are hereby revoked, but without prejudice to any permission to develop land previously granted by the interim development authority thereunder; and any application for permission to develop land which, at the commencement of this order, is outstanding under any such order shall be determined under and in accordance with the provisions of this order.

(2) Nothing in this order shall affect the provisions of any special order made under section forty-five of the Housing and Town Planning Act, 1919, or section four of the Town Planning Act, 1925, being provisions which permit, or authorise a local authority to permit, any development specified in the order. [1486]

SCHEDULE

PERMITTED DEVELOPMENT OF CLASS V

PART I

Permitted Development

1. The carrying out by railway undertakers, on land comprised in their undertaking, of any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant, except—

- (a) the construction of railways, railway stations and bridges;
- (b) the erection of any buildings outside the limits of a railway or railway station;
- (c) the erection within the limits of a railway or railway station, but not wholly within the interior of a station, of residential buildings, offices, or buildings (hereinafter referred to as "factory buildings") to be used for manufacturing or repairing work;

(d) the reconstruction or alteration of buildings outside the limits of a railway or railway station, and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of railway stations or bridges, or of residential buildings, offices or factory buildings within the limits of a railway or railway station but not wholly within the interior of a station ;

(e) the formation or alteration of any means of access to a highway.

2. The carrying out by dock or harbour undertakers, on land comprised in their undertaking, of any development required for the purposes of shipping, or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a dock or harbour or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction alteration, maintenance and repair of ways, buildings, works and plant, except—

(a) the construction of bridges, the erection of any other buildings (not being structures or erections required in connection with the handling of traffic), and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of bridges or of any such buildings ;

(b) the formation or alteration of any means of access to a highway.

3.—(1) The carrying out by canal or inland navigation undertakers, on land comprised in their undertaking, of any development required in connection with the movement of traffic by canal or inland navigation, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant required for those purposes, except—

(a) the construction of bridges, the erection of any other buildings (not being structures or erections required in connection with the handling of traffic), and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of bridges or of any such buildings ;

(b) the formation or alteration of any means of access to a highway.

(2) The use by any such undertakers of any land for the spreading of dredgings.

4. The carrying out by electricity, gas, water or hydraulic power undertakers of any of the following development, being development required for the purposes of their undertaking, that is to say—

(1) development of any description below the surface of the ground ;

(2) the installation of any plant inside a building ;

(3) the installation or erection within the premises of a gas works (including works for the manufacture or conversion of residual products) or generating station or sub-station established before the commencement of this order of any plant or other structures or erections required in connection with the works, station or sub-station, and not more than fifty feet in height nor capable without addition of being extended to a height of more than fifty feet ;

(4) the installation or erection of any plant or other structures or erections by way of addition to, or extension of plant, structures or erections already installed or erected (including the installation in an electrical transmission line of sub-stations, feeder pillars or transformer kiosks, but not including the erection of overhead pipes for the supply of water, or the installation of sub-stations, feeder pillars or transformer kiosks of stone, concrete or brickwork) and not more than fifty feet in height nor capable without addition of being extended to a height of more than fifty feet ;

(5) the replacement of any plant, structures or erections already installed or erected to a height not greater than the height of the existing plant, structure or erection ; provided that such replacement shall not include the installation or erection of any plant, structure or erection capable of extension without addition to a greater height than that to which the existing plant, structure or erection is capable of being extended ;

(6) the provision of any overhead line for the supply of electricity in accordance with the provisions of any enactment ;

(7) any other development except—

(a) the erection of buildings, the installation or erection of plant or other structures or erections, and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of buildings ;

(b) the formation or alteration of any means of access to a highway.

5. The carrying out by mining undertakers, on land comprised in their undertaking, of any development required for the purposes of their undertaking, except—

(a) the erection of buildings (not being plant or other structures or erections required for the winning, working, treatment or disposal of minerals), and the reconstruction alteration or extension so as materially to affect the design or external appearance thereof, of such buildings ;

(b) the formation or alteration of any means of access to a highway.

6. The carrying out by a drainage authority within the meaning of the Land Drainage Act, 1930, or by canal, inland navigation or water undertakers, of any development required in connection with the improvement, maintenance or repair of watercourses or drainage works.

7. The carrying out by a sewerage authority within the meaning of Part II of the Public Health Act, 1936, of any development below the surface of the ground required in connection with the provision, improvement, maintenance or repair of sewers.

8. The carrying out of development required in connection with the construction, reconstruction, improvement, alteration or repair of highways.

9. The carrying out by the General Lighthouse Authority under the Merchant Shipping Act, 1894, of any development required for the purposes of the exercise of their functions under that Act. [1487]

PART II

Development excepted from Restrictions under Article 5 of this Order

<i>Description of Development</i>	<i>Extent of Exception from Restrictions</i>
Development permitted by virtue of paragraph 1 of Part I of this Schedule.	<ol style="list-style-type: none"> 1. Maintenance of railway stations, bridges and buildings. 2. Alteration and maintenance of railway track, and provision and maintenance of track equipment, including signal boxes, signalling apparatus and other appliances and works required in connection with the movement of traffic by rail.
Development permitted by virtue of paragraphs 2 and 3 of Part I of this Schedule.	<ol style="list-style-type: none"> 1. Maintenance of buildings, docks, quays, wharves, canal track and towing paths. 2. Provision and maintenance of mechanical apparatus or appliances (including signalling equipment) required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a dock, quay, harbour, bank, wharf or basin. 3. In the case of a dock or harbour undertaking which includes a railway— <ol style="list-style-type: none"> (a) maintenance of railway stations, bridges and buildings ; (b) alteration and maintenance of railway track and provision and maintenance of track equipment, including signal boxes, signalling apparatus and other appliances and works required in connection with the movement of traffic by rail.

<i>Description of Development</i>	<i>Extent of Exception from Restrictions</i>
Development permitted by virtue of paragraph 4 of Part I of this Schedule.	1. Extension, alteration and maintenance of plant or other structures or erections. 2. Maintenance of any other buildings.
Development permitted by virtue of paragraph 5 of Part I of this Schedule.	1. Extension, alteration and maintenance of plant or other structures or erections required for the winning, working, treatment or disposal of minerals. 2. Maintenance of any other buildings used for those purposes. 3. Winning and working of minerals by underground working. 4. Deposit of waste materials or refuse in connection with the winning or working of minerals on any land comprised in a site which was used for that purpose at the commencement of this order, whether or not the superficial area of the deposit is thereby extended.
Development permitted by virtue of paragraphs 6, 7, 8 and 9 of Part I of this Schedule.	All development so permitted.

[1488]

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THE ACQUISITION OF LAND (VALUATION FOR SUPPLEMENTAL COMPENSATION) REGULATIONS, 1945

S. R. & O., 1945, No. 370

March 31, 1945

The Lords Commissioners of His Majesty's Treasury, in exercise of the powers conferred on Them by subsection (2) of section sixty of the Town and Country Planning Act, 1944, and of all other powers enabling Them in that behalf, hereby make the following regulations :—

1.—(1) These regulations may be cited as the Acquisition of Land (Valuation for Supplemental Compensation) Regulations, 1945.

(2) The Interpretation Act, 1889, applies for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament. [1489]

2. For the purposes of paragraph (a) of subsection (2) of section fifty-eight of the Town and Country Planning Act, 1944 (which provides that the maximum for the sum payable under that section in respect of an interest in land as consisting of or comprising a building (not being agricultural property) shall, where the interest in question is the fee simple, be thirty per cent. of the value of the building ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine) the value, ascertained by reference to such prices as aforesaid, of the building or buildings (not being agricultural property) being, or comprised in, land in respect of an interest in which a notice to treat has been served shall be taken to be the difference between the two following values, that is to say,—

(a) the value of the said land ascertained by reference to those prices on the assumption that the land had been subject to a permanent prohibition of any development other than the replacement of

buildings thereon at the time of service of the notice to treat by buildings of the same character and designed for use in the same manner as the buildings replaced, and having a cubic content no greater than that of the buildings replaced ; and

- (b) the value of the said land, ascertained by reference to those prices on the assumption that any building (not being agricultural property) thereon at the time of service of the notice to treat had not been on the land, and that the land had been subject to a permanent prohibition of any development other than the erection or replacement thereon of buildings of the same character, and designed for use in the same manner, as the buildings thereon at the time of service of the notice to treat, and having a cubic content no greater than that of those buildings. [1490]

3.—(1) For the purposes of paragraph (b) of the said section fifty-eight (which provides that the maximum for the sum payable under that section in respect of an interest in land as consisting of or comprising a building (not being agricultural property) shall, where the interest in question is a tenancy, be the amount by which the value of the tenancy in the building ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine, falls short of the value of the tenancy in the building ascertained by reference to prices thirty per cent. greater than those current at that date) the value, ascertained by reference to any such prices as aforesaid, of the tenancy in the building or buildings (not being agricultural property) being, or comprised in, land in respect of a tenancy in which a notice to treat has been served shall be taken to be the amount (if any) by which—

- (a) the annual value, as ascertained by reference to those prices respectively, of the building or buildings, exceeds
- (b) the rent payable in respect of the building or buildings,

capitalised at such number of years' purchase as appears appropriate having regard to the period which the tenancy had still to run at the time of service of the notice to treat and other circumstances.

(2) The annual value mentioned in sub-paragraph (a) of the preceding paragraph, as ascertained by reference to the prices therein mentioned respectively, shall be taken to be the difference between—

- (a) the annual value of the land in respect of the tenancy in which the notice to treat was served, ascertained (by reference to those prices respectively) on the like assumption as under paragraph (a) of regulation 2 of these regulations, and
- (b) the annual value of the said land, ascertained (by reference to those prices respectively) on the like assumption as under paragraph (b) of that regulation.

(3) The rent mentioned in sub-paragraph (b) of paragraph (1) of this regulation shall be taken to be the difference between the rent reserved in respect of the tenancy for the period in which the time of service of the notice to treat fell (or, if that period is other than a year, the annual equivalent thereof) and the annual value of the said land, ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine on the like assumption as under paragraph (b) of regulation 2 of these regulations :

Provided that where the rent reserved as aforesaid is greater by any amount than it would otherwise have been by reason of the landlord undertaking to bear any tenant's rates or any of the cost of the repairs and insurance and other expenses, if any, necessary to maintain the land in a state to

command that rent, or by reason of the landlord rendering or providing, or procuring to be rendered or provided, any services or goods, then for the purposes of this paragraph the rent reserved as aforesaid shall be taken to be reduced by the said amount. [1491]

4. In the application of either of the two last preceding regulations to land consisting of or comprising a part only of a building, the value or annual value, as the case may be, mentioned in paragraph (b) of regulation 2, or sub-paragraph (b) of paragraph (2) of regulation 3, of these regulations shall be taken to be an amount which bears to the value or annual value of the said land together with the remainder of the building and the curtilage thereof, ascertained by reference to the prices and on the assumption mentioned in the said paragraph or sub-paragraph, as the case may be, the same proportion as the value or annual value of the said land, ascertained by reference to the said prices and on the assumption mentioned in paragraph (a) of the said regulation 2, or sub-paragraph (a) of paragraph (2) of the said regulation 3, as the case may be, bears to the value or annual value of the said land together with the remainder of the building and the site thereof, ascertained as last mentioned. [1492]

5.—(1) For the purposes of regulations two and four of these regulations the value of land shall be taken to be the amount which the land might be expected to realise on a sale by a willing seller in the open market with vacant possession, and subject to—

- (a) any restrictive covenant, easement, quasi-easement, or other right enuring for the benefit of other land,
- (b) any public right of way, right of common, or other right enuring for the benefit of the public or any class thereof, and
- (c) any restriction imposed by or under any enactment, to which the land was subject at the time of service of the notice to treat,

but free from any other incumbrance.

(2) For the purposes of regulations three and four of these regulations the annual value of land, ascertained on any assumption, shall be taken to be the annual rent which a tenant might reasonably be expected to pay for the land for such term as he might on that assumption reasonably be expected to take, and if he undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent, and if the land were available with vacant possession, subject to any such incumbrance as is mentioned in sub-paragraphs (a) to (c) of the preceding paragraph, but free from any other incumbrance.

(3) Notwithstanding anything in paragraph (1) of this regulation, where at the time of service of the notice to treat land was subject to a tenancy, not being a tenancy under which the person claiming the supplement to compensation was the tenant, such reduction shall be made in the value in question as appears appropriate.

(4) In the application of regulation 2 or 3 of these regulations to land which has sustained war damage to a building thereon any of which has not been made good at the time of service of the notice to treat, the effect of the assumed prohibition of development mentioned in paragraphs (a) and (b) respectively of the said regulation 2 shall be calculated as if the building had been on the land at the time of service of the notice to treat in the state in which it was immediately before the occurrence of the damage.

(5) Rules (3) and (4) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall, with the necessary

modifications, have effect in relation to any ascertainment of value or annual value to be made for the purposes of the preceding regulations.

(6) For the purposes of these regulations the application to any land acquired of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, shall be disregarded. [1493]

6. In making, for the purposes of subsection (3) of section fifty-eight of the Town and Country Planning Act, 1944 (which provides that the maximum for the sum payable under that section in respect of an interest in land as consisting of or comprising agricultural property shall be the amount (if any) by which the value of the interest ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine, falls short of its value ascertained by reference to prices thirty per cent. greater and on the assumption that the property had been restricted to agricultural use) any valuation of an interest—

- (a) it shall be assumed that the interest had at the said thirty-first day of March, been subsisting as it was in fact subsisting at the time of service of the notice to treat; and
- (b) rules (2) to (4) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect. [1494]

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THE TOWN AND COUNTRY PLANNING GENERAL (INTERIM DEVELOPMENT) DIRECTION, 1945

S. R. & O., 1945, No. 419

April 23, 1945

The Minister of Town and Country Planning (hereinafter called "the Minister") in pursuance of the powers conferred upon him by subsection (1) of Section 6 of the Town and Country Planning (Interim Development) Act, 1943, and of all other powers enabling him in that behalf hereby directs that any application made to an Interim Development Authority after the 1st day of May, 1945, which, by paragraph (2) of Article 11 of the Town and Country Planning (General Interim Development) Order, 1945, is deemed to be an application for permission to develop land under Section 10 of the Town and Country Planning Act, 1932, by virtue of the service on the Interim Development Authority of—

- (a) a notice by any local authority or statutory undertakers that they have made an application for the sanction of a government department in respect of that development; or
- (b) a copy of a certificate issued by any government department certifying that that development is immediately required for any of the purposes set out in subsection (1) of Section 1 of the Emergency Powers (Defence) Act, 1939;

shall be referred by the Interim Development Authority to the Minister for decision by the Minister under the said Section 10. [1495]

* * * *

THE TOWN AND COUNTRY PLANNING (DEVELOPMENT BY AUTHORITIES) REGULATIONS, 1945*S. R. & O., 1945, No. 532**May 10, 1945*

The Minister of Town and Country Planning in pursuance of the powers conferred upon him by Section 32 of the Town and Country Planning Act, 1944, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as the Town and Country Planning (Development by Authorities) Regulations, 1945, and shall come into force on the eighteenth day of May, one thousand nine hundred and forty-five.

[1496]

2.—(1) In these Regulations, unless the context otherwise requires, the following expressions shall have the meanings hereby assigned to them respectively :—

“ the Act ” means the Town and Country Planning Act, 1944 ;

“ the Minister ” means the Minister of Town and Country Planning ;

“ Authority ” means any Authority empowered by an Interim Development Order to permit the development of land or any Authority responsible for the enforcement of any of the provisions of a planning scheme.

(2) The Interpretation Act, 1889 (52 & 53 Vict. c. 63) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1497]

3. The consent of the Minister shall not be required under Section 32 of the Act in respect of the carrying out by an Authority of any development of any description specified in Part I of the Schedule to these Regulations.

[1498]

4. The consent of the Minister shall not be required under Section 32 of the Act in respect of the carrying out by an Authority of any development of any description included in Part II of the Schedule to these Regulations unless notice in writing has been given by the Minister to the Authority requiring that an application for his consent shall be made in respect of that development.

Provided that where the Authority notify the Minister in writing of their intention to carry out any such development the Minister shall not require any application to be made for his consent in respect of that development after the expiration of one month from the date of such notification. [1499]

5. Any application by an Authority for any consent, authority or approval of a Government Department to or for any development of any description included in Part II of the Schedule to these Regulations shall be deemed to constitute a notification to the Minister for the purposes of Article 4 of these Regulations if at the time of making such application, or at such later date as the Minister may in a particular case allow, the Authority inform the Minister in writing that such application has been made and send to the Minister therewith a plan on a scale of not less than 6 inches to the mile showing the extent and boundaries of the land to which the application relates. [1500]

6. Any application by an Authority under Section 19 of the Act for the consent of the Minister to the appropriation by that Authority of any land for purposes of Part I of the Act shall be deemed to be a sufficient application for the consent of the Minister under Section 32 of the Act to carry out on that land any development for those purposes. [1501]

SCHEDULE

PART I

Any development of any description permitted by a General Interim Development Order

Aviaries.

Band stands.

Boat houses.

Buildings incidental to dwellinghouses.

Horse troughs.

Information kiosks.

Layout and use of land for allotments, open spaces, school playing fields and public walks and pleasure grounds, and the erection of buildings incidental thereto.

Police telephone boxes.

Public drinking fountains.

Public lavatories, urinals and closets.

Public shelters.

Pumping stations.

Refuse baskets.

Refuse destructors.

Refuse tips.

Seats.

Sewage disposal plant.

Single family dwellinghouses for police constables.

Slaughter houses.

Traffic passenger shelters. [1502]

PART II

Any development other than—

Development of any description included in Part I.

Aerodromes.

Electricity generating stations.

Gas holders.

Gas works including works for the manufacture or conversion of residual products.

Water towers. [1503]

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THE TOWN AND COUNTRY PLANNING AMENDMENT REGULATIONS, 1945

*S. R. & O., 1945, No. 661 **

June 4, 1945

The Minister of Town and Country Planning, in pursuance of the powers conferred upon him by the Town and Country Planning Act, 1932, and all other powers enabling him in that behalf, hereby makes the following Regulations :—

1.—(1) These Regulations may be cited as the Town and Country Planning Amendment Regulations, 1945, and shall come into force on the date hereof.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1504]

2. Article 28 of the Town and Country Planning Regulations 1933 shall be amended as follows :—

(1) The words “two duplicates” shall be substituted for the words “a duplicate” in paragraph (1).

(2) The word “twenty-eight” shall be substituted for the word “fourteen” in paragraphs (2) and (3). [1505]

* * * *

* These Regulations supersede the Provisional Regulations to like effect, dated February 23rd, 1945.

THE ACQUISITION OF LAND (OWNER-OCCUPIER) REGULATIONS, 1945

S. R. & O., 1945, No. 759/L. 12

June 18, 1945

Whereas it is provided by sub-section (5) of section 58 of the Town and Country Planning Act, 1944, that the person entitled to compensation for the purchase of an interest in land consisting of or comprising a building or agricultural property (hereinafter referred to as "the person entitled to compensation") shall be deemed for the purposes of Part II of that Act to be an owner-occupier if any of the following conditions are satisfied, and not otherwise, that is to say:—

- (a) if he is in occupation of the building or property at the time of service of the notice to treat;
- (b) in the case of a building or property so damaged at that time as not to be fit for occupation, if he was in occupation thereof when the damage occurred;
- (c) in the case of a building or property of which possession has been taken without other title by virtue of any enactment, or by an authority by whom, and in circumstances in which, possession thereof could have been so taken, and has not been given up before that time, if he was in occupation thereof when possession was so taken; or
- (d) if—
 - (i) the title under which the building or property is held at that time is such that he then has the right to enter into occupation thereof or will be in a position to obtain that right within five years from that time; and
 - (ii) it was at that time his intention, subject to its being possible for him so to do, to enter into occupation of the building or property within the said five years, or, if it is so damaged as not to be fit for occupation, to cause it to be restored for his occupation, or to enter into occupation of premises to be substituted therefor, within the said five years:

And whereas it is provided by sub-section (6) of the said section 58 that for the purposes of the said sub-section (5) references to the person entitled to compensation shall, where that person holds as trustee or otherwise for the benefit of another, or subject to the directions of another, be construed subject to such adaptations as may be prescribed by Regulations made by the Lord Chancellor.

Now, therefore, I, John Viscount Simon, Lord High Chancellor of Great Britain, in exercise of the powers conferred on me by the said sub-section, and of all other powers enabling me in this behalf, hereby make the following Regulations:—

1. Sub-section (5) of Section 58 of the Town and Country Planning Act, 1944, shall in relation to land of the classes or descriptions specified in the first column of the Schedule to these Regulations (being land consisting of or comprising a building or agricultural property) have effect as if—

- (a) for references in paragraphs (a) (b) or (c) of that sub-section to the person entitled to compensation there were substituted references to any such person as is specified in relation to land of that class or description in the Second Column of the said Schedule; and
- (b) for references in paragraph (d) (i) of that sub-section to the person entitled to compensation there were substituted references to the persons specified in relation to land of that class or description in the Third Column of the said Schedule; and

- (c) for references in paragraph (d) (ii) of that sub-section to the person entitled to compensation there were substituted references to any such person as is specified in relation to land of that class or description in the Fourth Column of the said Schedule. [1506]

2.—(1) In these Regulations—

- (a) The expressions “bankruptcy,” “defective” and “trust for sale” have the same meanings as in section 205 (1) of the Law of Property Act, 1925 ; the expressions “settled land” and “settlement” have the same meaning as in section 117 (1) of the Settled Land Act, 1925 ; and the expression “ecclesiastical property” has the same meaning as in section 52 (3) of the Town and Country Planning Act, 1944.
- (b) References to persons occupying the land pursuant to the trusts or powers of a settlement or trust, or to persons who would have been entitled to possession or who could have been permitted to occupy pursuant to such trusts or powers if administration of an estate had been completed, and to persons for whose benefit land is held, shall be deemed to include :—
- (i) the assignees (other than a person deriving his interest by virtue of a bankruptcy or a deed of arrangement) of any such persons ; and
- (ii) persons whose occupation or benefit derives from the exercise or existence of a discretionary power.
- (c) References to any enactment shall be construed as references to that enactment as amended by any subsequent enactment.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1507]

3. These Regulations may be cited as the Acquisition of Land (Owner-Occupier) Regulations, 1945. [1508]

* * * * *

SCHEDULE

1. Class or description of land	2. <i>Paragraphs (a), (b), (c).</i> Persons by whom occupation must be, or have been, had	3. <i>Paragraph (d) (i).</i> Persons having the right to occupy	4. <i>Paragraph (d) (ii).</i> Persons by whom an intention to occupy or restore, etc. may be shown
Settled Land and eccle- siastical property (other than settled land).	Any beneficiary under the settle- ment occupying pursuant to the trusts or powers of the settle- ment; in the case of land held on or for charitable, ecclesiastical or public trusts or purposes, any person occupying the land on or for those trusts or purposes.	The persons in whom the interest in the land is vested, and all the persons interested under the trusts affecting that interest or for whose benefit, or subject to whose directions, it is held, whether acting collectively or singly, or in any combination of two or more of such persons (any obstacle to their so acting arising by reason of all or any of them being unborn or under incapacity being disregarded).	Any person interested under the trusts of the settlement; and, where any such person is an infant, or a person of unsound mind or a defective, the guardian, the receiver or committee as the case may be; and where the land is vested in the official trustee of charity lands or in persons holding as bare trustees on or for charitable, ecclesiastical or public trusts or purposes, or comprises ecclesiastical property other than settled land, the managing trustees and the committee of management or other occupier, or person permitted to occupy on or for those trusts or purposes.
Land held upon trust for sale.	Any beneficiary under the trusts subject to which the land is held, being a person occupying by virtue of permission granted pursuant to the trusts or powers of the trust, and, in the case of land held on or for charitable, ecclesiastical or public trusts or purposes, any persons occupying the land on or for those trusts or purposes.	The persons in whom the interest in the land is vested, and all the persons interested under the trusts affecting that interest or for whose benefit, or subject to whose directions, it is held, whether acting collectively or singly, or in any combination of two or more of such persons (any obstacle to their so acting arising by reason of all or any of them being unborn or under incapacity being disregarded).	Any person interested under the trusts subject to which the land is held; and, where any such person is an infant, or a person of unsound mind or a defective, the guardian, the receiver or com- mittee, as the case may be; and, where the land is vested in the official trustee of charity lands or in persons holding as bare trustees for charitable, ecclesias- tical or public purposes, or com- prises ecclesiastical property other than settled land the managing trustees and the committee of management or other occupier, or person permitted to occupy on or for those trusts or purposes.

SCHEDULE—continued

1. Class or description of land	2. <i>Paragraphs (a), (b), (c).</i> Persons by whom occupation must be, or have been, had	3. <i>Paragraph (d) (i).</i> Persons having the right to occupy	4. <i>Paragraph (d) (ii).</i> Persons by whom an intention to occupy or restore, etc. may be shown
Land which has devolved upon, and is still vested in, a Legal Personal Representative, or the President of the Probate, Divorce and Admiralty Division of the High Court.	The testator or intestate; any person who, if administration of the estate of which the land forms part had been completed, would have been entitled to possession under the will or intestacy or could have been permitted to occupy by virtue of permission granted pursuant to powers derived from or under the will or intestacy.	The persons in whom the interest in the land is vested and all the persons interested under the trusts affecting that interest or for whose benefit, or subject to whose direction, the land would be held if administration had been completed, whether acting collectively or singly, or in any combination of two or more of such persons (any obstacle to their so acting arising by reason of all or any of them being unborn or under incapacity being disregarded).	Any beneficiary under the will or intestacy; and, where any such person is an infant, or a person of unsound mind or a defective, the guardian, the receiver or the committee, as the case may be.
Land not comprised within any of the foregoing classes or descriptions, being land held for the benefit of another or subject to the directions of another, but not including land which has vested in a trustee in bankruptcy at the date of the service of notice to treat.	The person in whom the interest in the land is vested or any person for whose benefit, or subject to whose directions, the land is held.	The persons in whom the interest in the land is vested and any person for whose benefit, or subject to whose directions, that interest is held, whether acting collectively or singly, or in any combination of two or more of such persons (any obstacle to their so acting arising by reason of all or any of them being unborn or under incapacity being disregarded).	The person in whom the interest in the land is vested or any person for whose benefit, or subject to whose directions, the land is held; and, where any such person is an infant or a person of unsound mind or a defective, the guardian, the receiver, or the committee, as the case may be.

THE TOWN AND COUNTRY PLANNING ACT, 1944, COMPULSORY PURCHASE (CONTEMPORANEOUS PROCEDURE) REGULATIONS, 1945

S. R. & O., 1945, No. 1035

August 18, 1945

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred upon him by paragraph 6 of the Second Schedule to the Town and Country Planning Act, 1944 (hereinafter called "the Act"), and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as the Town and Country Planning Act, 1944, Compulsory Purchase (Contemporaneous Procedure) Regulations, 1945, and shall come into force on the date hereof. [1510]

2. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1511]

3. Where an application has been made to the Minister for an Order under Section 1 of the Act declaring any land to be subject to compulsory purchase (hereinafter called "the Declaratory Order"), and the Declaratory Order has not been made, the Local Planning Authority by whom, or on whose behalf, such application was made, may, pending the making of the Declaratory Order take such proceedings under paragraphs 1 to 3 of the Second Schedule to the Act as are required to be taken in respect of the making of a Compulsory Purchase Order in respect of the said land. [1512]

4. Any proceedings which may be taken by a Local Planning Authority by virtue of the powers contained in Article 3 of these Regulations shall, for the purposes of the Second Schedule to the Act, be deemed to be proceedings taken, after the date on which the Minister makes the Declaratory Order, by the Authority promoting the Compulsory Purchase Order in respect of the said land. [1513]

* * * * *

THE TOWN AND COUNTRY PLANNING ACT, 1944 (PARTICULARS AND FORM OF ORDERS AND NOTICES) REGULATIONS, 1945

S. R. & O., 1945, No. 1036

August 18, 1945

The Minister of Town and Country Planning in exercise of the powers conferred upon him by Section 63 of the Town and Country Planning Act, 1944 (hereinafter called "the Act"), and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as the Town and Country Planning Act, 1944 (Particulars and Form of Orders and Notices) Regulations, 1945, and shall come into force on the date hereof. [1514]

2.—(1) Any reference in these Regulations to a map shall be to a map of a scale of not less than 25 inches to the mile.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1515]

3. The particulars of the interest of an owner for the purposes of Sub-section (12) of Section 1 of the Act and of an owner or occupier for the purposes of paragraph 5 of Part I of the Second Schedule to the Act shall be the name and postal address of the owner or occupier, a statement of the nature of the interest of the owner or occupier, and particulars sufficient to enable the local planning or highway authority to identify the extent and boundaries of the land. [1516]

4. Any notice or other document to be served on an owner or occupier in the manner provided by paragraph (ii) of the Proviso to Section 54 of the Act shall at the beginning of such notice or document have clearly and legibly inscribed upon it in the following form the words :

**IMPORTANT—This communication affects
YOUR PROPERTY**

and where the notice or document is sent under cover otherwise than in a prepaid registered letter the cover shall in addition be endorsed in like manner. [1517]

5. The form of information for the purposes of paragraph 2 of the Sixth Schedule to the Act shall be

- (a) the name and postal address of the person entitled to claim compensation ;
- (b) particulars sufficient to enable the local planning or highway authority to identify the extent and boundaries of the land ;
- (c) a statement of the nature of
 - (i) the interest in the land of the person entitled to claim compensation ;
 - (ii) any leases, tenancies, mortgages, covenants and incumbrances in respect of the land ; and
 - (iii) the war damage, if any, sustained by the land. [1518]

6. The forms set out in the Schedule hereto, or forms substantially to the like effect, shall be the forms to be used in connection with the powers and duties of the Local Planning or Highway Authority under the Act in all cases to which those forms are applicable. [1519]

THE SCHEDULE

GENERAL NOTE.—It is desirable that the address of the offices of the Authority or Joint Committee to which communications are to be sent should be appended to all personal notices and advertisements in which such communications are invited to be made.

Section 1 (5)

FORM No. 1

FORM OF APPLICATION FOR A DECLARATORY ORDER

TOWN AND COUNTRY PLANNING ACT, 1944

To the Minister of Town and Country Planning.

The (1).....
hereby make application to the Minister of Town and Country Planning for an Order to be made by the Minister declaring the land situate atand shown edged and coloured red on a map marked "Designation Map" and certified as such by the (2).....
 under his hand dated the.....day of....., 19....., and annexed hereto, to be subject to compulsory purchase for the purposes of (3).....

Dated the.....day of....., 19.....

.....
 Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

- (1) Insert name of Authority or Joint Committee.
 (2) Insert Clerk to the Authority or Chairman and Secretary of the Joint Committee or other duly authorised officer.
 (3) Insert statement of purpose in terms of the relevant subsection of Section 1 of the Act.

Section 1 (7) (a)
 and (b)

FORM No. 2

FORM OF ADVERTISEMENT AND PERSONAL NOTICE
 OF APPLICATION FOR A DECLARATORY ORDER

TOWN AND COUNTRY PLANNING ACT, 1944

To: (1).....
 of (1).....

Notice is hereby given that the (2).....
 in pursuance of their powers under Section 1 of the Town and Country Planning Act, 1944, on the.....day of....., 19....., have applied to the Minister of Town and Country Planning for an Order under the said Section declaring that the land situate at..... and described in the Schedule hereto, which land is shown on the map accompanying the application, shall be subject to compulsory purchase for the purposes of (3)....., and that the application is about to be considered by the Minister.

A copy of the application and of the map referred to [and of the descriptive matter annexed thereto] (4), and of the other documents relating to the application have been deposited at.....and will be open for inspection by all persons interested without payment of fee between the hours of.....

Any objection to the application must be made in writing, stating the grounds of the objection, and addressed to the Minister of Town and Country Planning, 32, St. James's Square, London, S.W.1, before the (5).....day of....., 19.....

The Minister is not, in all cases, required to arrange for objections to be heard by a person appointed by him for that purpose. It is important, therefore, that an objection should include a full statement in writing of the grounds on which the objection is made as the objector may have no further opportunity to make such a statement.

SCHEDULE

(Here insert description of the lands comprised in the Application.)

Dated the.....day of....., 19.....

.....
 Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

- (1) Delete for purpose of advertisement. For use as a personal notice, insert the name and address of the person on whom the notice is to be served.
 (2) Insert name of Authority or Joint Committee.
 (3) Insert statement of purpose in terms of the relevant subsection of Section 1 of the Act.
 (4) Strike out words in square brackets where inapplicable.
 (5) Insert a date not less than 28 days from the first date of local advertisement.

Section 1 (11)

FORM No. 3

FORM OF ADVERTISEMENT AND PERSONAL NOTICE
 OF THE MAKING OF A DECLARATORY ORDER

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

To: (1).....
 of (1).....

Notice is hereby given that the Minister of Town and Country Planning in pursuance of the powers vested in him by Section 1 of the Town and Country Planning

Act, 1944, on the.....day of....., 19....., made an Order declaring the land situate at.....and described in the Schedule hereto, which land is shown on the map referred to in the Order, to be subject to compulsory purchase for the purposes of ⁽²⁾.....

A copy of the Order and of the map [and of the descriptive matter annexed thereto] ⁽³⁾ have been deposited at.....and will be open for inspection by all persons interested without payment of fee between the hours of.....

SCHEDULE

(Here insert description of the lands comprised in the Order.)

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

⁽¹⁾ Delete for purpose of advertisement. For use as a personal notice, insert the name and address of the person on whom the notice is to be served.

⁽²⁾ Insert statement of purpose in terms of the relevant subsection of Section 1 of the Act.

⁽³⁾ Strike out words in square brackets where inapplicable.

Section 13 (5)

FORM No. 4

FORM OF REPRESENTATION BY A STATUTORY UNDERTAKER
WITH REFERENCE TO A DECLARATORY ORDER

TOWN AND COUNTRY PLANNING ACT, 1944

To the Minister of ⁽¹⁾.....

The ⁽²⁾....., being a person carrying on a statutory undertaking, hereby make a representation in accordance with the provisions of subsection (5) of Section 13 of the Town and Country Planning Act, 1944, that the land situate at.....particulars of which are set out in the Schedule hereto, is land to which the said Section 13 applies and hereby request that such land should be excluded from any Order proposed to be made by the Minister of Town and Country Planning in relation to an application dated the.....day of....., 19....., by the ⁽³⁾.....that the said land should be subject to compulsory purchase for the purposes of ⁽⁴⁾.

SCHEDULE

Nature of the undertaking and Statute from which it derives its powers	Quantity, description and situation of the land	Interest of the undertaker in the land	Purpose for which land is held by undertaker and present use if different therefrom

Dated the.....day of....., 19.....

.....
Signed on behalf of the undertaker.

DIRECTIONS FOR FILLING UP THIS FORM

⁽¹⁾ Insert name of appropriate Minister.

⁽²⁾ Insert name and address of the Statutory Undertaker.

⁽³⁾ Insert name of Authority or Joint Committee making application.

⁽⁴⁾ Insert statement of purpose as set out in the application made for Declaratory Order.

Sections 2, 3, 9, 10, 43 and
Second Schedule

FORM No. 5

FORM OF COMPULSORY PURCHASE ORDER MADE FOR THE PURPOSES OF
THE TOWN AND COUNTRY PLANNING ACT, 1944

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

The ⁽¹⁾.....(in this Order referred to as "the Authority") here makes the following Order :—

1. Subject to the provisions of this Order the Authority are hereby authorised to purchase compulsorily for the purposes of ⁽²⁾.....the lands described in the Schedule hereto, which lands are shown edged and coloured blue on a map marked ⁽³⁾.....and sealed with the seal of the Authority and annexed hereto.

2. ⁽⁴⁾ Section seventy-seven and Sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, as originally enacted, and not as amended for certain purposes by Section fifteen of the Mines (Working Facilities and Support) Act, 1923, are hereby incorporated with this Order and the provisions of that Act as originally enacted shall apply accordingly.

SCHEDULE

Number on the map	Quantity, description and situation of the lands

Given under the seal of the ⁽¹⁾.....the
.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

- ⁽¹⁾ Insert name of Authority making the Order.
- ⁽²⁾ Insert statement of purpose in terms of the relevant section of the Act.
- ⁽³⁾ Insert heading of map. The map should be identified by a heading in terms of the title of the Order.
- ⁽⁴⁾ The application of Sections 77 and 78 to 85 to all or any of the land is optional. The paragraph should be deleted or adapted as may be necessary.

Second Schedule,
paragraph 2 (1)

FORM No. 6

FORM OF ADVERTISEMENT AND PERSONAL NOTICE OF SUBMISSION OF A
COMPULSORY PURCHASE ORDER FOR CONFIRMATION

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

To : ⁽¹⁾.....
of ⁽¹⁾.....

Notice is hereby given that the ⁽²⁾....., in pursuance of their powers under Section ⁽³⁾.....of the Town and Country Planning Act, 1944, on the.....day of....., 19....., made an Order which has been submitted for confirmation by the Minister of Town and Country Planning authorising them to purchase compulsorily for the purposes of ⁽⁴⁾.....the lands described in the Schedule hereto.

A copy of the Order, and of the map referred to therein, have been deposited at.....and will be open for inspection without payment of fee between the hours of.....

Any objection to the Order must be made in writing, stating the grounds of the objection, and addressed to the Minister of Town and Country Planning, 32, St. James's Square, London, S.W.1, before the ⁽⁵⁾.....day of, 19.....

The Minister is not, in all cases, required to arrange for objections to be heard by a person appointed by him for that purpose. It is important, therefore, that an objection should include a full statement in writing of the grounds on which the objection is made as the objector may have no further opportunity to make such a statement.

Any owner or occupier of any land to which the Order relates may send to the ⁽²⁾.....at the address below, a request in writing to serve him with a notice that the Order has been confirmed, and naming a place where a copy of the Order and of the map and of any descriptive matter annexed thereto, may be seen. Such request should contain a statement of the name, postal address and the interest in the land of the owner or occupier, and particulars sufficient to enable the local planning or highway authority to identify the extent and boundaries of the land.

SCHEDULE

(Here insert description of the lands comprised in the Order.)

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

(1) Delete for purpose of advertisement. For use as a personal notice, insert the name and address of the person on whom the notice is to be served.

(2) Insert name of Authority making the Compulsory Purchase Order.

(3) Insert section of the Act under which the Compulsory Purchase Order is made.

(4) Insert statement of purpose in terms of the section of the Act under which the Compulsory Purchase Order is made.

(5) Insert a date not less than 28 days from the first date of local advertisement.

Second Schedule,
paragraph 5

FORM No. 7

FORM OF ADVERTISEMENT AND PERSONAL NOTICE OF CONFIRMATION OF A COMPULSORY PURCHASE ORDER

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

To : (1).....
of (1).....

Notice is hereby given that the Minister of Town and Country Planning in pursuance of the powers vested in him by Section (2)of the Town and Country Planning Act, 1944, on the.....day of....., 19....., confirmed [with modifications] (3) an Order submitted to him by the (4)authorising the Council to purchase compulsorily for the purposes of (5).....the lands described in the Schedule hereto.

A copy of the confirmed Order, and of the map referred to therein, has been deposited at.....and will be open for inspection without payment of fee between the hours of.....

SCHEDULE

(Here insert description of the lands comprised in the Order.)

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

(¹) Delete for purpose of advertisement. For use as a personal notice, insert the name and address of the person on whom the notice is to be served.

(²) Insert section of the Act under which the Compulsory Purchase Order is made.

(³) Strike out words in square brackets if inapplicable.

(⁴) Insert name of Authority making the Compulsory Purchase Order.

(⁵) Insert statement of purpose in terms of the section of the Act under which the Compulsory Purchase Order is made.

Sections 2, 3, 9, 10, 43, Second FORM No. 8
and Sixth SchedulesFORM OF COMPULSORY PURCHASE ORDER MADE FOR THE PURPOSES OF THE TOWN
AND COUNTRY PLANNING ACT, 1944, WHERE EXPEDITED COMPLETION OF
PURCHASE IS APPLIED

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

The (¹).....(in this Order referred to as "the Authority") hereby makes the following Order:—

1. Subject to the provisions of this Order, the Authority are hereby authorised to purchase compulsorily for the purposes of (²).....the lands described in the Schedule hereto, which lands are shown edged and coloured blue on a map marked (³).....and sealed with the seal of the Authority and annexed hereto.

2. (⁴) Section seventy-seven and Sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, as originally enacted, and not as amended for certain purposes by Section fifteen of the Mines (Working Facilities and Support) Act, 1923, are hereby incorporated in this Order, and the provisions of that Act as originally enacted shall apply accordingly.

3. The provisions of the Sixth Schedule to the Town and Country Planning Act, 1944, providing for expedited completion of purchase shall apply to this Order as respects the land to which this Order relates.

4. (⁵) For the purposes of paragraph 1 of the said Sixth Schedule the period for which a tenancy in the said lands is still to run shall be a period expiring on theday of....., 19.....

5. (⁶) The earliest time at which a Declaration may be executed by the Authority for the purposes of paragraph 3 of the said Sixth Schedule shall be the expiration of (⁷).....from the date of first publication of the notice of confirmation of this Order.

SCHEDULE

Number on the map	Quantity, description and situation of the lands

Given under the seal of the (¹).....
the.....day of....., 19..........
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

- (1) Insert name of Authority making the Order.
- (2) Insert statement of purpose in terms of the relevant section of the Act.
- (3) Insert heading of the map. The map should be identified by a heading in terms of the title of the Order.
- (4) The application of Sections 77, and 78 to 85 to all or any of the land is optional. The paragraph should be deleted or adapted as may be necessary.
- (5) Strike out this paragraph where not required. The paragraph should only be inserted where it is intended to define the "long tenancy" by reference to a period fixed by the Authority. Where different periods are proposed to be fixed as respects different tenancies the paragraph should be adapted to provide accordingly.
- (6) Strike out this paragraph where not required. The paragraph must be inserted where it is desired to take advantage of the proviso to paragraph 3 (2) of the 6th Schedule to the Act.
- (7) If it is desired to make the Declaration in respect of a portion only of the land to which the Order relates, or to make a Declaration fixing different times for different portions of the land, a plan showing the portion or portions of the land in a different colour or colours should be attached as part of the Order, and the paragraph should be adapted accordingly to provide for inclusion of a reference to such plan.

Second Schedule, paragraph 2 (1) and Sixth Schedule

FORM No. 9

FORM OF ADVERTISEMENT AND PERSONAL NOTICE OF SUBMISSION FOR CONFIRMATION
OF A COMPULSORY PURCHASE ORDER APPLYING EXPEDITED COMPLETION OF
PURCHASE

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

To : (1).....
of (1).....

Notice is hereby given that the (2).....
in pursuance of their powers under Section (3).....of the Town and
Country Planning Act, 1944, on the.....day of.....
19....., made an Order, which has been submitted for confirmation by the Minister
of Town and Country Planning, authorising them to purchase compulsorily for the
purposes of (4).....
the lands described in the Schedule hereto, and directing that the provisions of the
Act relating to expedited completion of purchase shall apply thereto.

A copy of the Order, and of the map referred to therein, have been deposited
at.....and will be
open for inspection without payment of fee between the hours of.....

Where the Minister confirms the Order, he may, if he is satisfied that it is requisite
so to do, confirm the Order with a Direction that the provisions of the Act relating
to expedited completion of purchase shall apply to the said land.

Where the confirmed Order contains such a Direction the following provisions
will operate :—

- (a) The Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended and applied by the Town and Country Planning Act, 1944, will have effect as if a notice to treat such as is mentioned in Section 18 of the Lands Clauses Consolidation Act, 1845, had been served on every person on whom the Council could, under the terms of that Section, have served such a notice, namely, all persons interested in the said lands ; all persons enabled by the Land Clauses Acts to sell and convey or release any of the said lands ; or such of the above persons as would after diligent enquiry be known to the Council, and the date on which such notice to treat will be deemed to have been served will be the date on which the Order is registered in the Register of Local Land Charges kept in respect of the area in which the lands are situated. Such notice to treat will not be deemed to have been served on any person in respect of an interest which is a tenancy for a year, or from year to year, or a less interest, [or a tenancy having still to run only a period expiring on the.....day of..... ;] (5).

- (b) The ⁽²⁾.....may, at any time after the expiration of ⁽⁶⁾.....from the date of first publication of the notice of confirmation of the Order and subject to the said tenancies, execute a Declaration :
- (i) of their intention to enter on the whole or part of the lands to which the Order relates and take possession thereof at the expiration of a period specified in such declaration, not being less than fourteen days from the completion of the service of a notice to that effect on occupiers, and on persons entitled to claim compensation who have given information to the Council of the nature of the land in respect of which they are entitled to claim compensation and of their interest therein, and
 - (ii) that the lands will vest in the Council at the expiration of the period specified in such declaration.

Any objection to the Order must be made in writing stating the grounds of the objection, and addressed to the Minister of Town and Country Planning, 32, St. James's Square, London, S.W.1, before the ⁽⁷⁾.....day of, 19.....

The Minister is not, in all cases, required to arrange for objections to be heard by a person appointed by him for that purpose. It is important, therefore, that an objection should include a full statement in writing of the grounds on which the objection is made as the objector may have no further opportunity to make such a statement.

Any owner or occupier of any land to which the Order relates may send to the ⁽²⁾.....at the address below, a request in writing to serve him with a notice that the Order has been confirmed, and naming a place where a copy of the Order and of the map and of any descriptive matter annexed thereto, may be seen. Such request should contain a statement of the name, postal address and the interest in the land of the owner or occupier, and particulars sufficient to enable the local planning or highway authority to identify the extent and boundaries of the land.

SCHEDULE

(Here insert description of the lands comprised in the Order.)

Dated this.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

(1) Delete for purpose of advertisement. For use as a personal notice insert name and address of the person on whom the notice is to be served.

(2) Insert name of Authority making the Compulsory Purchase Order.

(3) Insert section of the Act under which the Compulsory Purchase Order is made.

(4) Insert statement of purpose in terms of the section of the Act under which the Compulsory Purchase Order is made.

(5) Strike out words in square brackets if inapplicable. The words should be inserted only where the Compulsory Purchase Order provides for a specific date for the determination of the "long tenancy" and if different periods are fixed as respects different tenancies the paragraph should be amended accordingly.

(6) The words "two months" should be here inserted unless it is proposed that a longer or shorter period should be substituted. Where provision is made for fixing different times for different portions of the land, the paragraph should be amended accordingly.

(7) Insert a date not less than 28 days from the first date of local advertisement.

Second Schedule, paragraph 5 FORM No. 10
and Sixth Schedule

FORM OF ADVERTISEMENT AND PERSONAL NOTICE OF CONFIRMATION BY THE
MINISTER OF A COMPULSORY PURCHASE ORDER APPLYING EXPEDITED COMPLETION OF PURCHASE

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

To : ⁽¹⁾.....
of ⁽¹⁾.....

Notice is hereby given that the Minister of Town and Country Planning in pursuance of the powers vested in him by Section (2).....of the Town and Country Planning Act, 1944, on the.....day of....., 19....., confirmed [with modifications] (3) an Order submitted to him by the (4).....authorising the Council to purchase compulsorily for the purposes of (5).....the lands described in the Schedule hereto.

The Order contains a Direction that the provisions of the Act relating to expedited completion of purchase shall apply to the said lands, and the effect of the application of such provisions is—

(a) the (4).....have power on or after the (6).....day of....., 19....., to execute a Declaration—

- (i) of their intention to enter on the whole or any part of the said land to which the Order relates and take possession thereof at the expiration of a period specified in such Declaration, not being less than fourteen days from the completion of the service of the notice to that effect on occupiers and on persons entitled to claim compensation who have given information to the Council of the nature of the land in respect of which they are entitled to claim compensation and of their interest therein ; and

- (ii) that the lands will vest in the Council at the expiration of the period specified in such Declaration.

- (b) At the expiration of the period specified in such Declaration, the right to enter and take possession of the lands to which the Declaration relates will vest in the Council without the previous consent of the owners or occupiers of the lands, or without compliance with the provisions of Sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, and the lands will vest in the Council as if the Council were under that Act promoters of an undertaking having powers to execute a Deed Poll for vesting in them the lands, or any estate or interest in the lands, or for the extinguishment of any service, rent-charge, chief or other rent, payment or incumbrance. Such right of entry and vesting of the land are subject to the following restrictions :—

- (i) In the case of a tenancy for a year, or from year to year, or any less interest, the right of entry is not exercisable, and the vesting of the lands in the Council is subject to any such tenancy during its subsistence without prejudice to the powers of the Council under the Lands Clauses Act to require a tenant to give up possession.

- [(ii) In the case of a tenancy having still to run only a period expiring on the.....day of....., 19....., the right of entry is not exercisable until the Council have served a notice to treat in respect of the tenancy, and have thereafter served a notice on every occupier of the lands in which the tenancy subsists, describing the lands to which the notice relates and stating their intention to enter on and take possession thereof at the expiration of a period (specified in the notice and not being less than fourteen days) from the date on which the notice is served, and the vesting of the lands in the Council is subject to the tenancy until the expiration of such period or the cesser of the tenancy, whichever first occurs.] (7)

A copy of the confirmed Order, and of the map referred to therein, has been deposited at.....and will be open for inspection without payment of fee between the hours of.....

Any person entitled to claim compensation in respect of any of the land to which this Order relates may send to the Council his name and postal address ; particulars sufficient to enable the Council to identify the extent and boundaries of the land ; and a statement of the nature of his interest in the land, of any leases, tenancies, mortgages, covenants and incumbrances in respect of the land and of any war damage sustained by the land. (8)

SCHEDULE

(Here insert description of the lands comprised in the Order.)

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

(1) Delete for purpose of advertisement. For use as a personal notice insert name and address of the person on whom the notice is to be served.

(2) Insert Section of the Act under which the Compulsory Purchase Order is made.

(3) Strike out words in square brackets if inapplicable.

(4) Insert name of Authority making the Compulsory Purchase Order.

(5) Insert statement of purpose in terms of the Section of the Act under which the Compulsory Purchase Order is made.

(6) Insert a date not less than two months from the date of the first publication of notice of confirmation of Order or such earlier or later date as may be provided for by the Order.

(7) Strike out words in square brackets if inapplicable. If applicable insert a date as fixed by the Compulsory Purchase Order.

(8) Where the Authority provide a form for the submission of this information, a paragraph should be added to the effect that a form for the purpose may be had on application at the offices of the Council.

Section 13 (3)

FORM No. 11

FORM OF REPRESENTATION BY A STATUTORY UNDERTAKER WITH REFERENCE
TO A COMPULSORY PURCHASE ORDER

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

To the Minister of (1).....

The (2).....
being a person carrying on a Statutory Undertaking, hereby make a representation in accordance with the provisions of subsection (3) of Section 13 of the Town and Country Planning Act, 1944, that the land situated at..........particulars of
which are set out in the Schedule hereto, is land to which the said Section 13 applies, and hereby request that such land should be excluded from the Order submitted to the Minister of Town and Country Planning by the (3).....on the
.....day of....., 19....., authorising the compulsory
purchase of the said land for the purposes of (4).....

SCHEDULE

Nature of the undertaking and Statute from which it derives its powers	Quantity, description and situation of the land	Interest of the undertaker in the land	Purpose for which the land is held by undertaker and present use if different therefrom

Dated the.....day of....., 19.....

.....
Signed on behalf of the undertaker.

DIRECTIONS FOR FILLING UP THIS FORM

(1) Insert name of appropriate Minister.

(2) Insert name and address of the Statutory Undertaker.

(3) Insert name of Authority submitting the Compulsory Purchase Order.

(4) Insert statement of purpose as set out in the Compulsory Purchase Order.

Section 13 (4) and Third
Schedule, paragraph 1

FORM No. 12

FORM OF APPLICATION FOR A COMPULSORY PURCHASE ORDER FOR LAND
HELD FOR THE CARRYING ON OF A STATUTORY UNDERTAKING

TOWN AND COUNTRY PLANNING ACT, 1944

The ⁽¹⁾.....hereby make an application to the Minister of Town and Country Planning and the Minister of ⁽²⁾.....for an Order to be made by the said Ministers authorising the Council to purchase compulsorily for the purposes of ⁽³⁾.....the lands situate at.....and ⁽⁴⁾.....by the ⁽⁵⁾.....for the purposes of carrying on their undertaking, being lands to which the provisions of subsection (1) of Section 13 of the Town and Country Planning Act, 1944, relate, which lands are shown edged and coloured blue on a map marked ⁽⁶⁾.....and sealed with the seal of the Council and annexed hereto.

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

- ⁽¹⁾ Insert name of Authority making the application.
- ⁽²⁾ Insert name of appropriate Minister.
- ⁽³⁾ Insert statement of purpose in terms of the relevant Section of the Act.
- ⁽⁴⁾ Insert the word "used" or the words "in which an interest is held," as the case may be.
- ⁽⁵⁾ Insert name and address of the Statutory Undertaker.
- ⁽⁶⁾ Insert heading of map. The map should be identified by an appropriate heading.

Section 13 (4) and Third
Schedule, paragraph 2

FORM No. 13

FORM OF PERSONAL NOTICE OF APPLICATION FOR A COMPULSORY PURCHASE ORDER
FOR LAND HELD FOR THE CARRYING ON OF A STATUTORY UNDERTAKING

TOWN AND COUNTRY PLANNING ACT, 1944

To ⁽¹⁾.....
of ⁽¹⁾.....

Notice is hereby given that the ⁽²⁾.....in pursuance of their powers under Section 13 of the Town and Country Planning Act, 1944, on the.....day of....., 19....., have applied to the Minister of Town and Country Planning and to the Minister of ⁽³⁾.....for an Order to be made by those Ministers authorising the Council to purchase compulsorily for the purposes of ⁽⁴⁾.....the lands described in the Schedule hereto and ⁽⁵⁾.....by the ⁽⁶⁾.....for the purposes of carrying on their undertaking, being lands to which the provisions of subsection (1) of Section 13 of the Act relate and that the application is about to be considered by those Ministers.

A copy of the application, and of the map referred to therein, have been deposited at.....and will be open for inspection without payment of fee between the hours of.....

Any objection to the making of the Order must be made in writing stating the grounds of the objection, and addressed to the Minister of Town and Country Planning, 32, St. James's Square, London, S.W.1, before the ⁽⁷⁾.....day of....., 19.....

SCHEDULE

(Here insert description of the lands comprised in the Application.)

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

(1) Insert name and address of person on whom the notice is required to be served.

(2) Insert name of Authority making the application.

(3) Insert name of appropriate Minister.

(4) Insert statement of purpose in terms of relevant Section of the Act.

(5) Insert the word "used" or the words "in which an interest is held," as the case may be.

(6) Insert name and address of Statutory Undertaker.

(7) Insert a date not less than 28 days from the service of the notice.

Section 13 (4) and Third
Schedule, paragraph 5

Form No. 14

FORM OF PERSONAL NOTICE OF THE MAKING OF A COMPULSORY PURCHASE ORDER
FOR LAND HELD FOR THE CARRYING ON OF A STATUTORY UNDERTAKING

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

To : (1).....

of (1).....

Notice is hereby given that the Minister of Town and Country Planning and the Minister of (2).....
 in pursuance of the powers vested in them by Section 13 of the Town and Country Planning Act, 1944, on the.....day of....., 19.....
 made [with modifications] (3) an Order in accordance with an application submitted to them by the (4).....
 authorising the Council to purchase compulsorily for the purposes of (5).....
the lands described in the Schedule hereto.

A copy of the Order, and of the map referred to therein, have been deposited at.....and will be open for
 inspection without payment of fee between the hours of.....

SCHEDULE

(Here insert description of the lands comprised in the Order.)

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

(1) Name and address of person on whom the notice is required to be served.

(2) Insert name of appropriate Minister.

(3) Strike out where inapplicable.

(4) Insert name of Authority making the application.

(5) Insert statement of purpose in terms of the relevant Section of the Act.

Section 13 (4), Third Schedule, FORM No. 15
paragraph 1, and Sixth Schedule

FORM OF APPLICATION FOR A COMPULSORY PURCHASE ORDER FOR LAND HELD FOR
THE CARRYING ON OF A STATUTORY UNDERTAKING AND FOR EXPEDITED
COMPLETION OF PURCHASE

TOWN AND COUNTRY PLANNING ACT, 1944

The ⁽¹⁾.....hereby make an application to the Minister of Town and Country Planning and the Minister of ⁽²⁾.....for an Order to be made by those Ministers authorising the Council to purchase compulsorily for the purposes of ⁽³⁾.....the lands situate at.....and ⁽⁴⁾.....by the ⁽⁵⁾.....for the purposes of carrying on their undertaking, being lands to which the provisions of subsection (1) of Section 13 of the Town and Country Planning Act, 1944, relate, which lands are shown edged and coloured blue on a map marked ⁽⁶⁾.....and sealed with the seal of the Council and annexed hereto.

The ⁽¹⁾.....make a further application to the Minister of Town and Country Planning and the Minister of ⁽²⁾.....that the said Order shall include a Direction that the provisions of the Sixth Schedule to the Town and Country Planning Act, 1944, relating to expedited completion of purchase shall apply to the said Order as respects the lands to which the Order relates.

⁽⁷⁾ For the purposes of paragraph 1 of the said Sixth Schedule the period for which a tenancy in the said lands is still to run shall be a period expiring on theday of....., 19.....

⁽⁸⁾ The earliest time at which a Declaration may be executed by the Authority for the purposes of paragraph 3 of the said Sixth Schedule shall be the expiration of ⁽⁹⁾.....from the date of first publication of notice of confirmation of the said Order.

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

- ⁽¹⁾ Insert name of Authority making the application.
- ⁽²⁾ Insert name of appropriate Minister.
- ⁽³⁾ Insert statement of purpose in terms of the relevant Section of the Act.
- ⁽⁴⁾ Insert the word "used" or the words "in which an interest is held", as the case may be.
- ⁽⁵⁾ Insert name and address of the Statutory Undertaker.
- ⁽⁶⁾ Insert heading of map. The map should be identified by an appropriate heading.
- ⁽⁷⁾ Strike out this paragraph where not required. The paragraph should only be inserted where it is intended to define the "long tenancy" by reference to a period fixed by the Authority. Where different periods are proposed to be fixed as respects different tenancies the paragraph should be adapted to provide accordingly.
- ⁽⁸⁾ Strike out this paragraph where not required. The paragraph must be inserted where it is desired to take advantage of the proviso to paragraph 3 (2) of the 6th Schedule to the Act.
- ⁽⁹⁾ If it is desired to make a Declaration in respect of a portion only of the land to which the Order is to relate, or to make a Declaration fixing different times for different portions of the land, a plan showing the portion or portions of the land in a different colour or colours should accompany the application, and the paragraph should be adapted accordingly to provide for inclusion of a reference to such plan.

Section 13 (4), Third Schedule, FORM No. 16
paragraph 2, and Sixth Schedule

FORM OF PERSONAL NOTICE OF APPLICATION FOR A COMPULSORY PURCHASE ORDER
FOR LAND HELD FOR THE CARRYING ON OF A STATUTORY UNDERTAKING AND
FOR EXPEDITED COMPLETION OF PURCHASE

TOWN AND COUNTRY PLANNING ACT, 1944

To (1).....
of (1).....

Notice is hereby given that the (2).....
in pursuance of their powers under Section 13 of the Town and Country Planning
Act, 1944, on the.....day of....., 19....., has
applied to the Minister of Town and Country Planning and to the Minister
of (3).....for an
Order to be made by those Ministers authorising the Council to purchase compul-
sory for the purpose of (4).....
the lands described in the Schedule hereto and (5).....
by the (6).....
for the purposes of carrying on their undertaking, being lands to which the pro-
visions of sub-section (1) of Section 13 of the Act relate, and directing that the
provisions of the Act relating to expedited completion of purchase shall apply
thereto; and that the application is about to be considered by those Ministers.

A copy of the said application, and of the map referred to therein, have been
deposited at.....and will be
open for inspection without payment of fee between the hours of.....

Where the said Ministers make the Order, they may include therein a Direction
that the provisions of the Act relating to expedited completion of purchase shall
apply to the said lands.

Where the Order so made contains such a Direction, the following provisions will
operate:—

- (a) The Lands Clauses Acts and the Acquisition of Land (Assessment of Com-
pensation) Act, 1919, as amended and applied by the Town and Country
Planning Act, 1944, will have effect as if a notice to treat such as is men-
tioned in Section 18 of the Lands Clauses Consolidation Act, 1845, had
been served on every person on whom the Council could, under the terms
of that section, have served such a notice, namely, all persons interested
in the said lands; all persons enabled by the Lands Clauses Acts to sell
and convey or release any of the said lands; or such of the above persons
as would after diligent enquiry be known to the Council, and the date on
which such notice to treat will be deemed to have been served will be the
date on which the Order is registered in the Register of Local Land Charges
kept in respect of the area in which the lands are situated. Such notice
to treat will not be deemed to have been served on any persons in respect
of an interest which is a tenancy for a year, or from year to year, or a less
interest, [or a tenancy having still to run only a period expiring on the
.....day of.....;] (7)
- (b) the (2).....may, at any time after the expiration
of (8).....from the date of first publication of the
notice of the making of the Order, and subject to the said tenancies,
execute a Declaration—
 - (i) of their intention to enter on the whole or part of the lands to which
the Order relates and take possession thereof at the expiration of a
period specified in such declaration not being less than 14 days
from the completion of the service of a notice to that effect on
occupiers and on persons entitled to claim compensation who have
given information to the Council of the nature of the land in respect
of which they are entitled to claim compensation and of their interest
therein; and
 - (ii) that the lands will vest in the Council at the expiration of the period
specified in such declaration.

Any objection to the making of the Order must be made in writing stating the grounds of the objection, and addressed to the Minister of Town and Country Planning, 32, St. James's Square, London, S.W.1, before the ⁽⁹⁾..... day of....., 19.....

SCHEDULE

(Here insert description of the lands comprised in the Application.)

Dated the.....day of....., 19.....

DIRECTIONS FOR FILLING UP THIS FORM

- (1) Insert name and address of person on whom the notice is required to be served.
- (2) Insert name of Authority making the application.
- (3) Insert name of appropriate Minister.
- (4) Insert statement of purpose in terms of the relevant section of the Act.
- (5) Insert the word "used" or the words "in which an interest is held", as the case may be.
- (6) Insert name and address of Statutory Undertaker.
- (7) Strike out words in square brackets if inapplicable. The words should be inserted only where the application provides for a specific date for the determination of the "long tenancy", and if different periods are fixed as respects different tenancies, the paragraph should be amended accordingly.
- (8) The words "two months" should be here inserted unless it is proposed that a longer or shorter period should be substituted. Where provision is made for fixing different times for different portions of the land, the paragraph should be amended accordingly.
- (9) Insert a date not less than 28 days from the date of the service of the notice.

Section 13 (4), Third Schedule, FORM No. 17
paragraph 5, and Sixth Schedule

FORM OF PERSONAL NOTICE OF THE MAKING OF A COMPULSORY PURCHASE ORDER
FOR LAND HELD FOR THE CARRYING ON OF A STATUTORY UNDERTAKING,
APPLYING EXPEDITED COMPLETION OF PURCHASE

TOWN AND COUNTRY PLANNING ACT, 1944

(Title of Order)

To ⁽¹⁾.....
of ⁽¹⁾.....

Notice is hereby given that the Minister of Town and Country Planning and the Minister of ⁽²⁾.....in pursuance of the powers vested in them by Section 13 of the Town and Country Planning Act, 1944, on the..... day of....., 19....., made [with modifications] ⁽³⁾ an Order in accordance with an application submitted to them by the ⁽⁴⁾..... authorising the said Council to purchase compulsorily for the purposes of ⁽⁵⁾.....the lands described in the Schedule hereto.

The Order contains a direction that the provisions of the Act relating to expedited completion of purchase shall apply to the said lands, and the effect of the application of such provisions is—

(a) the ⁽⁴⁾.....have power on or after the ⁽⁶⁾.....day of....., 19....., to execute a Declaration—

- (i) of their intention to enter on the whole or any part of the said lands to which the Order relates and take possession thereof at the expiration of a period specified in such Declaration, not being less than fourteen days from the completion of the service of the notice to that effect on occupiers and on persons entitled to claim compensation who have given information to the Council of the nature of the land in respect of which they are entitled to claim compensation and of their interest therein; and
- (ii) that the lands will vest in the Council at the expiration of the period specified in such Declaration.

- (b) At the expiration of the period specified in such Declaration, the right to enter and take possession of the lands to which the Declaration relates will vest in the Council without the previous consent of the owners or occupiers of the lands, or without compliance with the provisions of Sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, and the lands will vest in the Council as if the Council were under that Act promoters of an undertaking having powers to execute a Deed Poll for vesting in them the lands, or any estate or interest in the lands, or for the extinguishment of any rent service, rentcharge, chief or other rent, payment or incumbrance. Such right of entry and vesting of the lands are subject to the following restrictions :—

- (i) In the case of a tenancy for a year, or from year to year, or any less interest, the right of entry is not exercisable, and the vesting of the lands in the Council is subject to any such tenancy during its subsistence without prejudice to the powers of the Council under the Lands Clauses Act to require a tenant to give up possession.
- [(ii) In the case of a tenancy having still to run only a period expiring on the.....day of....., 19....., the right of entry is not exercisable until the Council have served a notice to treat in respect of the tenancy, and have thereafter served a notice on every occupier of the lands in which the tenancy subsists, describing the lands to which the notice relates and stating their intention to enter on and take possession thereof at the expiration of a period (specified in the notice and not being less than fourteen days) from the date on which the notice is served, and the vesting of the lands in the Council is subject to the tenancy until the expiration of such period or the cesser of the tenancy, whichever first occurs.] (7)

A copy of the Order, and of the map referred to therein, has been deposited at.....and will be open for inspection without payment of fee between the hours of.....

Any person entitled to claim compensation in respect of any of the land to which this Order relates may send to the Council his name and postal address ; particulars sufficient to enable the Council to identify the extent and boundaries of the land ; and a statement of the nature of his interest in the land, of any leases, tenancies, mortgages, covenants and incumbrances in respect of the land and of any war damage sustained by the land. (8)

SCHEDULE

(Here insert description of the lands comprised in the said Order.)

Dated the.....day of....., 19.....

.....
Signature of duly authorised officer.

DIRECTIONS FOR FILLING UP THIS FORM

(1) Insert name and address of person on whom the notice is required to be served.

(2) Insert name of appropriate Minister.

(3) Strike out words in square brackets if inapplicable.

(4) Insert name of Authority making the application.

(5) Insert statement of purpose in terms of the relevant section of the Act.

(6) Insert a date not less than two months from the date of completion of service of notices of making of Order or such earlier or later date as may be provided by the Order.

(7) Strike out words in square brackets if inapplicable. If applicable insert a date as fixed by the Compulsory Purchase Order.

(8) Where the Authority provide a form for the submission of this information, a paragraph should be added to the effect that a form for the purpose may be had on application at the offices of the Council.

Section 14 (4)

FORM No. 18

FORM OF ADVERTISEMENT OF CERTIFICATE WHERE LAND IS GIVEN IN
EXCHANGE ⁽¹⁾

TOWN AND COUNTRY PLANNING ACT, 1944

Whereas by Section 14 of the Town and Country Planning Act, 1944, it is enacted that where an Order under Part I of the Act authorises the compulsory purchase by a Local Planning or Highway Authority of any land forming part of any common, open space or fuel or field garden allotment, for a purpose other than the widening of an existing highway the Order as far as it relates to the acquisition of such land shall be provisional only and shall be of no effect until confirmed by Parliament except where the Minister of ⁽²⁾.....is satisfied that there has been or will be given in exchange for such land other land not being less in area, and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attached to the land purchased, and certifies accordingly.

And whereas the ⁽³⁾.....authorises the compulsory purchase of land forming part of the ⁽⁴⁾.....

And whereas certain land(s) has (have) been or is (are) proposed to be given in exchange for such land(s) ;

And whereas public notice has been given by the Minister of his intention to give a certificate under the said Section 14 as respects the proposed exchange, and an opportunity has been afforded to all persons interested to make representations and objections in relation thereto to the Minister ;

⁽⁵⁾ And whereas the Minister having had regard to representations and objections made, has caused a public local inquiry to be held into the matter of the proposed exchange.

Notice is hereby given that the Minister of ⁽²⁾.....in pursuance of the powers enabling him in that behalf has certified that the land(s) that has (have) been or will be given in exchange for the land(s) forming part of ⁽⁴⁾.....is (are) not less in area and is (are) equally advantageous to the persons entitled to rights of common or other rights, and to the public, and that the land(s) given or proposed to be given in exchange has (have) been or will be vested in the persons in whom the land(s) purchased was (were) vested, and will be subject to the like rights, trusts and incidents as attached to the land(s) purchased.

A Map (Maps) showing the area of the said land(s) proposed to be given in exchange for the land(s) forming part of ⁽⁴⁾.....may be inspected at.....without payment of fee between the hours of.....

Dated the.....day of....., 19.....

.....
Signature of duly authorised Officer.

DIRECTIONS FOR FILLING UP THIS FORM

⁽¹⁾ This form is applicable both to a Compulsory Purchase Order and an Order authorising appropriation of land under Section 14 (2) of the Act.

⁽²⁾ Insert name of certifying Minister.

⁽³⁾ Insert title of Order.

⁽⁴⁾ Insert name, if any, and description of land forming part of a common, open space or fuel or field garden allotment, as the case may be.

⁽⁵⁾ Strike out this paragraph if inapplicable.

Section 14 (4)

FORM No. 19

FORM OF ADVERTISEMENT OF CERTIFICATE WHERE THE GIVING OF LAND
IN EXCHANGE IS DECLARED TO BE UNNECESSARY ⁽¹⁾

TOWN AND COUNTRY PLANNING ACT, 1944

Whereas by Section 14 of the Town and Country Planning Act, 1944, it is enacted that where an Order under Part I of the Act authorises the compulsory

purchase by a Local Planning or Highway Authority of any land forming part of any common, open space or fuel or field garden allotment, for the widening of an existing highway, the Order as far as it relates to the acquisition of such land shall be provisional only and shall be of no effect until confirmed by Parliament, except where the Minister of (2).....is satisfied that the giving in exchange therefor of land is unnecessary, whether in the interests of the persons, if any, entitled to the rights of common or other rights, or in the interests of the public, and certifies accordingly ;

And whereas the (3).....authorises the compulsory purchase of land(s) forming part of (4).....for the purposes of widening the highway known as (5).....

And whereas public notice has been given by the Minister of his intention to give a certificate under the said Section 14 that the giving of land in exchange is unnecessary ;

(6) And whereas the Minister having had regard to representations and objections made, has caused a public local inquiry to be held into the matter.

Notice is hereby given that the Minister of (2).....in pursuance of the powers enabling him in that behalf has certified that the giving of other land(s) in exchange for the land(s) required for the widening of the highway known as (5).....is unnecessary whether in the interests of the persons entitled to the rights of common or other rights, or in the interests of the public.

A Map (Maps) showing the area of the said land(s) required for the widening of the said highway may be inspected at.....without payment of fee between the hours of.....

Dated the.....day of....., 19.....

Signature of duly authorised Officer.

DIRECTIONS FOR FILLING UP THIS FORM

(1) This form is applicable both to a Compulsory Purchase Order and an Order authorising appropriation of land under Section 14 (2) of the Act.

(2) Insert name of certifying Minister.

(3) Insert title of Order.

(4) Insert name, if any, and description of land forming part of a common, open space or fuel or field garden allotment, as the case may be.

(5) Insert description sufficient to identify the highway to be widened.

(6) Strike out this paragraph if inapplicable. [1520]

* * * * *

THE ACQUISITION OF LAND (COMPENSATION FOR WAR DAMAGED LAND) RULES, 1945

S. R. & O., 1945, No. 1216/L. 19

September 28, 1945

I, William Allen Baron Jowitt, Lord High Chancellor of Great Britain, after consultation with the Reference Committee for England and Wales constituted under the Acquisition of Land (Assessment of Compensation) Act, 1919, and in exercise of the powers conferred upon me by the Eighth Schedule to the Town and Country Planning Act, 1944, do hereby make the following Rules.

PART I

Citation and Interpretation

1. These Rules may be cited as the Acquisition of Land (Compensation for War Damaged Land) Rules, 1945. [1521]

2.—(1) In these Rules the following expressions have the meanings herein after respectively assigned to them, that is to say :

- (a) "the Act" means the Town and Country Planning Act, 1944 ;
- (b) "the Act of 1919" means the Acquisition of Land (Assessment of Compensation) Act, 1919 ;
- (c) "an arbitrator" means a member of the panel of official arbitrators appointed under Section 1 of the Act of 1919 ;
- (d) "the Commission" means the War Damage Commission ;
- (e) "hereditament" has the meaning assigned to it by Section 5 (1) of the War Damage Act, 1943 ;
- (f) "the Eighth Schedule" means the Eighth Schedule to the Act ;
- (g) "claimant" means, in relation to interests in a hereditament, any person having an interest in the whole of the land in the hereditament, being an interest in respect of which a notice to treat has been served ;
- (h) "the Reference Committee" means the Reference Committee for England and Wales constituted under the Act of 1919 ;
- (i) "the valuation officer", in relation to interests in a hereditament, means any officer of the Valuation Office appointed by the Commissioners of Inland Revenue for the purpose of paragraph 2 of the Eighth Schedule.

(2) Words in these Rules importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to the Act or of any other enactment, is to be deemed to be served.

(3) The Interpretation Act, 1889, applies for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of Parliament. [1522]

PART II

Determination of questions as to whether compensation on compulsory purchase is to be the certified after-damage value of the land and as to adjustment of such value.

3. Where the subject of a compulsory purchase, the compensation for which is by virtue of Section 57 of the Act to be assessed subject to the rule set out in sub-section (1) of that Section, is or comprises an interest in the whole of the land in a hereditament the value of which is required by the War Damage Act, 1943, to be ascertained by reference to its state after war damage and to an assumed sale thereof, any question raised by a claimant or by the purchasing authority

- (a) whether between the occurrence of the war damage and the time when the notice to treat is served the land in the hereditament has been brought into a state such as to make it capable of being as beneficially used while remaining in that state as it was immediately before the occurrence of the war damage, or
- (b) if the land has not been brought into such a state as aforesaid, whether there is any material difference either
 - (i) between the state of the land in the hereditament after damage by reference to which the value thereof falls to be ascertained under the War Damage Act, 1943, and its state at the time when the notice to treat is served, or
 - (ii) between the incumbrances, if any, to which the land was subject immediately after the occurrence of the war damage and the incumbrances, if any, to which it is subject at the time when the notice to treat is served (being incumbrances of a kind required by the said Act to be taken into account in ascertaining the value of the hereditament)

shall, subject to and in accordance with the provisions of these Rules, be determined by the Commission. [1523]

4.—(1) If a claimant desires that any such question as is mentioned in Rule 3 hereof shall be determined he may within 28 days after the date of service of the notice to treat in respect of his interest notify the purchasing authority to that effect and, on receipt of any such notification, the purchasing authority shall serve a copy thereof on the Commission together with particulars of the names and addresses of the claimants then known to the authority.

(2) If the purchasing authority desires that any such question as is mentioned in Rule 3 hereof shall be determined it may within 28 days after the date of service of the first notice to treat in respect of an interest in the land notify the Commission that it requires the Commission to determine any such question as aforesaid. Any notification by the purchasing authority shall contain particulars of the names and addresses of every claimant then known to the authority.

(3) The Commission may from time to time extend the said period of 28 days and an extension may be granted although the application is not made until after the said period, or any extension thereof, has expired, or until a certificate has been issued under sub-rule (1) of Rule 6 hereof in default of reference to them in any question under Rules 3 and 4 hereof. [1524]

5.—(1) Upon the Commission being required to determine any question under the last foregoing Rule the following provisions shall have effect, that is to say :—

- (a) the Commission shall, as soon as may be, given notice to the purchasing authority and every claimant whose name and address has been notified to them under the last foregoing Rule of the period (which shall not be less than 21 days after the date of the Commission's notice) at the expiration of which they will proceed to determine the question referred to them ;
- (b) the purchasing authority and any such claimant may during that period submit to the Commission written representations relating to the question to be determined ;
- (c) the Commission shall consider any representations submitted to them under paragraph (b) ;
- (d) the Commission may, if they consider it desirable to do so for the purpose of making their determination,
 - (i) require the purchasing authority and every such claimant to furnish to them any document or other information which it, or he, has power to furnish,
 - (ii) direct that an inquiry be held before such person (whether an officer of the Commission or not) as they may appoint for the purpose who shall make a report to the Commission ;
- (e) in the event of the Commission directing the holding of an inquiry, the person appointed to hold the inquiry shall fix the time and place thereof and shall notify the purchasing authority and every such claimant of the time and place so fixed in order that they may appear or be represented thereat ;
- (f) not more than one expert witness shall be heard at any inquiry on behalf of the purchasing authority or any such claimant unless the person holding the inquiry otherwise directs ;
- (g) the Commission, after considering any representations submitted to them as aforesaid and the report of any inquiry directed by them to be held, shall make their determination ;
- (h) the Commission shall give the purchasing authority a certificate recording their determination and the purchasing authority shall forthwith serve a copy of the certificate on every claimant.

(2) Subject to the preceding provisions of this Rule, the Commission shall have power to regulate their own procedure, including the manner in which, and the officers of the Commission by whom, questions subject to determination by the Commission under these Rules are to be determined and the manner in which determinations made by officers in any locality are to be subject to review by a deputy commissioner or other superior officer or by members of the Commission.

(3) If any claimant notified by the Commission under sub-rule (1) (a) of Rule 5 hereof in connection with the determination of any such question as is mentioned in Rule 3 hereof or the purchasing authority is aggrieved by the determination of the question, he may appeal therefrom on any question of law to the Judge of the High Court for the time being nominated by the Lord Chancellor for the purposes of the War Damage Act, 1943.

(4) The determination by the Commission of any such question as is mentioned in Rule 3 hereof shall become final as between the purchasing authority and every claimant notified by the Commission under sub-rule (1) (a) of Rule 5 hereof in connection with that determination

(a) in a case where no appeal against the determination is brought, on the date when the period within which such an appeal may be brought expires, and

(b) in a case where such an appeal is brought on the date when the appeal, or (if there is more than one) the last such appeal, is finally determined or abandoned or the date when the period within which such an appeal may be brought expires, whichever is the later. [1525]

6.—(1) Where the determination of any question referred to the Commission under Rules 3 and 4 hereof has become final or, if neither a claimant nor the purchasing authority has referred any question to be determined under those Rules, the period prescribed under Rule 4 has expired the purchasing authority or any claimant may request the Commission to furnish to the purchasing authority a certificate stating the certified after-damage value of the land and the Commission shall furnish such certificate as soon as they are in a position to do so.

(2) If at any time after the Commission have furnished a certificate stating the certified after-damage value of any land a question is referred to them in respect of that land under Rules 3 and 4 hereof the Commission may cancel or amend their certificate as the case may require and in that event shall notify the purchasing authority of the cancellation or amendment.

(3) The purchasing authority on receipt of any such certificate or of notification of any cancellation or amendment thereof shall forthwith serve a copy on every claimant. [1526]

7.—(1) If there is any such material difference as is mentioned in Rule 3 (b) hereof any question how the certified after-damage value ought to be adjusted in accordance with the provisions of sub-paragraph (3) of paragraph 1 of the Eighth Schedule shall, subject to and in accordance with these Rules, be determined by an arbitrator or other person or tribunal selected in accordance with the provisions of the First Schedule to these Rules.

(2) If the purchasing authority and all the claimants have agreed, or the Commission have made a determination (which has become final), that there is any such material difference as aforesaid but at the expiration of 30 days thereafter the purchasing authority and all the claimants have not agreed how the certified after-damage value ought to be adjusted as aforesaid, the purchasing authority or any claimant may, by giving notice of reference to the Reference Committee within a further period of 30 days, require the question to be referred for determination to an arbitrator or other person or tribunal selected in accordance with the provisions of the First Schedule to these Rules. [1527]

8. In a case where the land is comprised in an order providing for expedited completion the duty of the purchasing authority to serve a copy of any notification or certificate on every claimant shall be discharged by serving a copy on every person who has given information to the authority in relation to the land pursuant to such invitation as is mentioned in paragraph 2 of the Sixth Schedule to the Act. [1528]

9.—(1) Where an arbitrator has been selected under the Acquisition of Land (Assessment of Compensation) Rules, 1919, to determine any question of disputed compensation relating to land, or an interest in land, which is or comprises the whole of the land in a hereditament the value of which is required by the War Damage Act, 1943, to be ascertained by reference to its state after war damage and to an assumed sale thereof, any person interested in the determination of that question or the purchasing authority may apply to the arbitrator for a stay or discontinuance of proceedings under the said Rules so far as they relate to the land to which the Eighth Schedule may apply.

(2) If the arbitrator on any such application is satisfied that the Eighth Schedule may apply for the purposes of the ascertainment of the compensation for the purchase of the land in question or any part thereof and that either the Commission's certificate as to the after-damage value of the land to which the Eighth Schedule may apply has not been furnished or any such question as is mentioned in Rule 3 or 7 hereof has been referred for determination, all proceedings under the said Acquisition of Land (Assessment of Compensation) Rules, 1919, shall, so far as they relate to the land to which the Eighth Schedule may apply, be stayed until the Commission have furnished their certificate or, as the case may be, the determination has become final.

(3) The person in whose favour a stay is granted under the last foregoing sub-rule shall forthwith upon receiving a copy of the Commission's certificate or notice of the determination notify the arbitrator thereof.

(4) If the arbitrator is satisfied that by virtue of paragraph 1 of the Eighth Schedule the value of the land comprised in a hereditament is to be taken for the purposes of the ascertainment of compensation to be its certified after-damage value (or that value as adjusted) and notices to treat have been served in respect of two or more interests in the whole of that land on the same day or within the period fixed under Rule 11 hereof, all proceedings under the said Acquisition of Land (Assessment of Compensation) Rules, 1919, relating to the compensation to be paid for the purchase of each of those interests shall be discontinued. [1529]

PART III

Provisions relating to ascertainment of compensation for compulsory purchase of several interests in land by apportionment of certified after-damage value thereof.

10. The purchasing authority shall, before serving a notice to treat as respects any interest in the whole of the land in a hereditament, have regard to any other such interest and shall, as far as may be practicable, arrange that notices to treat in respect of any such other interests which it is intended to acquire compulsorily shall be served on the same day as the notice in respect of the first-mentioned interest or within sixty days thereafter and shall contain, or be accompanied by, notification of the date of service of the notice in respect of the first-mentioned interest. [1530]

11. The period referred to in sub-paragraph (1) of paragraph 2 of the Eighth Schedule within which, where a notice to treat has been served as respects an interest in the whole of the land in a hereditament, such a notice in respect of any other interest therein must be or have been served in order

to render the provisions of that paragraph applicable to the ascertainment of the compensation to be paid for the purchase of those interests shall be 60 days after the date of service of the first-mentioned notice to treat. [1531]

12.—(1) Where the value of the land comprised in a hereditament is to be taken for the purposes of the ascertainment of compensation for the compulsory purchase thereof to be its certified after-damage value (or that value as adjusted) and notices to treat have been served in respect of two or more interests in the whole of that land on the same day or within the period fixed under Rule 11 hereof, the following provisions shall have effect, that is to say :—

- (a) every claimant and the purchasing authority, as respects any excluded interest, shall use their best endeavours to agree the value of the respective interests and upon agreement being reached every claimant, if the purchasing authority is not a party to the agreement, shall notify the purchasing authority of the value agreed in respect of his and all the other interests ;
- (b) if the values are not agreed within 60 days after the date of the Commission's certificate of the after-damage value, any claimant, or the purchasing authority as respects any excluded interest, may cause, and any claimant, if so requested by the purchasing authority, shall cause, an estimate of the value of his interest or the excluded interest, as the case may be, to be made and transmitted to the valuation officer ;
- (c) if an estimate of the value of any interest is made and transmitted to the valuation officer under paragraph (b) of this Rule a copy of the estimate shall at the same time be sent by the person at whose instance the estimate was made to the other interested parties and any claimant to whom such copy is sent and the purchasing authority as respects any excluded interest shall within 21 days of the receipt thereof, if he has not already done so, cause an estimate of the value of his interest, or of any excluded interest, as the case may be, to be made and transmitted to the valuation officer and at the same time send a copy of the estimate to the other interested parties.
- (d) every estimate shall be accompanied by particulars of :—
 - (i) the nature of the interest,
 - (ii) any leases, tenancies, incumbrances, charges, easements or restrictions affecting the interest so far as known,
 - (iii) the matters in dispute,
 - (iv) the manner of calculating, and the evidence supporting, the estimated value of the interest ;
- (e) if in respect of any interest no claim is duly made within 21 days after the date of the Commission's certificate of the after-damage value the purchasing authority may appoint an independent person skilled in valuation to act for the purpose of sub-paragraphs (3) to (6) of paragraph 2 of the Eighth Schedule in respect of that interest and in that event
 - (i) the purchasing authority shall notify the claimant in respect of every other interest of the appointment of that person, and
 - (ii) the provisions of these Rules shall have effect as if all things done under this and the next two following Rules by the person so appointed had been duly authorised by all persons concerned in respect of the interest in question to be done by that person as agent for them.

(2) For the purposes of paragraph (c) of sub-rule (1) of this Rule the other interested parties to whom a copy of the estimate is to be sent are

- (i) in the case of an estimate by a claimant, the other claimants and the purchasing authority, and
- (ii) in the case of an estimate by a purchasing authority as respects an excluded interest, all the claimants.

(3) If the Commission under Rule 6 (2) hereof amend a certificate of the after-damage value of any land the periods prescribed in paragraphs (b) and (e) of sub-rule (1) of this Rule shall, in relation to that land or any interests therein, run from the date of the original certificate. [1532]

13.—(1) The valuation officer shall, after considering the estimates transmitted to him, require the claimants and, if there is any excluded interest, the purchasing authority, or their respective representatives, to attend a meeting at his office or at some other convenient place to be selected by him.

(2) The valuation officer shall give the claimants and, if there is any excluded interest, the purchasing authority not less than three weeks' notice of the intended meeting.

(3) The valuation officer shall at the meeting use his best endeavours to secure agreement between the parties as to the values of the various interests but, if after the meeting he comes to the conclusion that agreement cannot be reached, he shall proceed as soon as may be to make assessments of the value of each interest the value of which has not been agreed between the parties and shall transmit a copy of his assessment of each such interest to all the persons concerned.

(4) The valuation officer may proceed to make an assessment of the value of an interest under the last foregoing sub-rule notwithstanding that no estimate of the value of that interest has been transmitted in accordance with Rule 12 hereof or that no representative in respect of that interest has attended the meeting. [1533]

14. If any claimant or, if there is any excluded interest, the purchasing authority is aggrieved by an assessment made by the valuation officer, the claimant or the authority may by giving notice of appeal to the Reference Committee within 28 days after receipt of the assessment require the value of the interest dealt with by the assessment to be determined by an arbitrator. [1534]

15.—(1) Where an independent person has been appointed in respect of an interest under paragraph (e) of sub-rule (1) of Rule 12 hereof and the value of the interest has been agreed or assessed under sub-paragraph (3) or (4) of paragraph 2 of the Eighth Schedule any person who would have been entitled but for the said paragraph 2 to have any question of disputed compensation in relation to that interest referred to arbitration in accordance with the Act of 1919 and who, by means of a statutory declaration made and transmitted to the Reference Committee within six months after the agreement or assessment of the value of the interest and after furnishing such further information as the Committee may require, satisfies the Committee that the fact that no claim was duly made within the time prescribed by the said paragraph (e) was not attributable to any default on his part may, by giving notice of appeal to the Committee within 28 days after receipt of notice of the Committee's decision, require the value of the interest to be determined by an arbitrator.

(2) The Reference Committee shall have power from time to time to extend the said period of six months and an extension may be granted although the application is not made until after the said period, or any extension thereof, has expired. [1535]

16. The procedure for obtaining such determination as is referred to in Rules 7, 14 and 15 hereof shall be in accordance with the provisions set out in the First and Second Schedules to these Rules. [1536]

FIRST SCHEDULE

1. In this Schedule, "interested person" means

- (i) in relation to a reference under Rule 7, the purchasing authority and every claimant;
- (ii) in relation to an appeal under Rule 14, the applicant and any other claimant and, where there is an excluded interest, the purchasing authority, and
- (iii) in relation to an appeal under Rule 15, the applicant and the purchasing authority.

2.—(1) Notice of reference or appeal shall be given in writing and substantially in the Form A set out in the Second Schedule to these Rules and shall be sent to the Reference Committee in duplicate.

(2) The applicant shall when sending any such notice to the Reference Committee at the same time send a copy thereof to every other person known or believed by him to be an interested person.

3.—(1) The Reference Committee may, on the application of any interested person made before the expiration of the further period prescribed by sub-rule (2) of Rule 7 or the time prescribed by Rules 14 or 15, as the case may be, extend the time within which a notice of reference or appeal should be given to the Reference Committee as they, in their absolute discretion, think fit.

(2) Any application for an extension of time shall be made in writing to the Reference Committee and shall state the grounds on which it is made, and a copy thereof shall be sent at the same time by the applicant to every other person known or believed by him to be an interested person.

(3) The Reference Committee shall give to any interested person to whom a copy of the application has been sent pursuant to sub-paragraph (2) of this paragraph reasonable opportunity for laying before them in writing any objection which he may have to any application for an extension of time and the Reference Committee shall consider any such objections before dealing with the application.

4.—(1) The Reference Committee on receiving a valid notice of reference or appeal shall proceed to select from the panel an arbitrator to determine the reference or appeal;

Provided that, where a valid notice of reference is duly given to the Reference Committee under Rule 7 for the determination of the question how the certified after-damage value of land in a hereditament ought to be adjusted in accordance with the provisions of sub-paragraph (3) of paragraph 1 of the Eighth Schedule and an appeal involving the after-damage value of that land has been made in accordance with the provisions of the War Damage Act, 1943, or any amendment or re-enactment thereof the Reference Committee shall, unless in their opinion it is impracticable to do so, select the same person or tribunal to determine the reference as was selected to determine the appeal, whether or not that person or tribunal is an arbitrator.

Where under the foregoing proviso the Reference Committee select a person or tribunal who is not an arbitrator to determine a reference, the person or tribunal so selected shall for the purposes of the following provisions of this Schedule be deemed to be an arbitrator and those provisions shall be construed accordingly.

(2) Where more than one valid notice of reference or appeal is duly given to the Reference Committee in relation to the same hereditament or where application for the selection of an arbitrator has been made both under the Acquisition of Land (Assessment of Compensation) Rules, 1919, and under these Rules to determine any question in relation to the same hereditament the Reference Committee shall, unless in their opinion it is impracticable to do so, select the same person or tribunal to act as arbitrator in respect of those references or appeals.

(3) The Reference Committee shall, as soon as they have selected the arbitrator, send him a copy of the notice of reference or appeal and shall inform the applicant and every person named in the notice as another interested person of the name and address of the arbitrator so selected.

5.—(1) Where the same person has been selected to act as arbitrator in respect of two or more references or appeals, the applicant in any of those references or appeals and any other person who is an interested person for the purposes of any

of those references or appeals, may at any time after the arbitrator has been so selected apply to him for an order that all the references or appeals shall be heard together or that any one of the references or appeals may be heard in priority to the others and the others postponed.

(2) Any person who intends to apply to the arbitrator for such an order as aforesaid shall send written notice of his intention to each other person who under sub-paragraph (1) hereof is entitled to make the application.

(3) If any person to whom a notice is required to be given under sub-paragraph (2) hereof objects to the proposed application he shall within seven days after receipt of the notice send written notice of his objection to the arbitrator.

(4) The arbitrator shall consider any objections made to the application and may at his discretion either dispose of them without a hearing or fix a time and place for the hearing of the objections, in which case he shall give notice thereof to the person applying for the order and to every other person to whom a notice is required to be given under sub-paragraph (2) of this paragraph hereof.

(5) The arbitrator, after taking into consideration any such objections, shall make such order in the matter as he thinks proper having regard to all the circumstances of the case and, if he thinks fit, may make an order for consolidation with respect to some only of the references or appeals and the order may in any case be made subject to such special directions as to costs, witnesses, method of procedure and otherwise as the arbitrator thinks proper.

6.—(1) Any applicant may apply to the arbitrator, or if no arbitrator has been appointed, to the Reference Committee for leave to withdraw his reference or appeal and the arbitrator, or the Reference Committee, as the case may be, may refuse or grant the application unconditionally or subject to such conditions (including payment of costs) as he, or they, may think fit.

(2) An application for leave to withdraw a reference or appeal shall be in writing and substantially in the Form B set out in the Second Schedule to these Rules and the applicant shall send a copy thereof to every other interested person.

7. The Reference Committee may, in the case of the death or the incapacity of the arbitrator originally selected, or if it is shown to the Committee that it is expedient so to do in any other case, at any time before the arbitrator has made his decision revoke his appointment and select another arbitrator for the purpose of determining the reference or appeal.

8. If it appears to the arbitrator that any applicant has failed to send a copy of a notice of reference or appeal to any person who appears to the arbitrator to be an interested person, the arbitrator may direct that a copy of the notice shall be sent to that person.

9. The arbitrator shall, as soon as practicable after his selection, fix a time and place for the hearing of the reference or appeal and shall give notice thereof to the applicant, to every person named in the notice of reference or appeal as another interested person, to every person to whom the arbitrator has under paragraph 8 of this Schedule directed that a copy of a notice of reference or appeal shall be sent and to every other person who has satisfied the arbitrator that he is an interested person and has notified the arbitrator of his desire to appear at the hearing.

10.—(1) On the hearing of a reference or appeal the applicant and every other person who is entitled to a notice of the hearing under paragraph 9 of this Schedule shall be entitled to appear and be heard and, subject to the provisions of these Rules, the proceedings on the hearing shall be such as the arbitrator may in his discretion direct.

(2) On the hearing of any reference or appeal before an arbitrator not more than one expert witness may be heard at the instance of the applicant and each other interested person unless the arbitrator otherwise directs.

(3) On the hearing of an appeal before an arbitrator the valuation officer who made the assessment from which the appeal is made shall attend, if the arbitrator so requires, to answer such questions as the arbitrator may think fit to put to him thereon.

11.—(1) The decision of the arbitrator on a reference or appeal shall be substantially in the Form C set out in the Second Schedule to these Rules and shall be sent to the Reference Committee and the arbitrator shall cause copies thereof

to be furnished to the applicant and to every other interested person who appeared on the hearing.

(2) If as the result of a case being stated by the arbitrator for the opinion of the High Court or of the County Court directions are given by the Court for any amendment of his decision, such amendment shall be substantially in the Form D set out in the Second Schedule to these Rules and shall be sent to the Reference Committee and the arbitrator shall cause copies thereof to be furnished to the applicant and to every other interested person who appeared on the hearing.

12. For the purposes of an application for an extension of time under paragraph 3 of this Schedule or for leave to withdraw a notice of reference or appear under paragraph 6 of this Schedule the Reference Committee may act by such one or more of their members or officers as the Committee may appoint for the purpose.

13.—(1) The costs of any arbitration or reference under these Rules shall be in the discretion of the arbitrator who may direct to and by whom and in what manner those costs or any part thereof shall be paid and the arbitrator may in any case disallow the costs of Counsel.

(2) The amount of any costs of any arbitration or reference under these Rules shall be determined by reference to scales to be prescribed by the Treasury and in case of difference as to the amount of any such costs they shall be taxed by the arbitrator or in such manner as he may direct.

(3) For the purposes of this paragraph "costs" includes any fees charges and expenses of the arbitration or reference or award.

14. Any notice or other document required or authorised to be sent to any person for the purpose of this Schedule shall be deemed to have been duly sent if sent by post addressed to that person at his ordinary address and the address of the Reference Committee for this purpose shall be

The Secretary to the Reference Committee,
121, Royal Courts of Justice,
London, W.C.2.

15. Any failure on the part of any person to comply with the provisions of this Schedule shall not render the proceedings or anything done in pursuance thereof invalid unless the arbitrator so directs. [1537]

SECOND SCHEDULE

A

FORM OF NOTICE OF REFERENCE OR APPEAL TOWN AND COUNTRY PLANNING ACT, 1944

Acquisition of Land (Compensation for War Damaged Land) Rules, 1945

Notice of Reference under Rule 7 (2) of the Rules

or

Notice of Appeal under Rule 14 of the Rules

or

Notice of Appeal under Rule 15 of the Rules

The Secretary of the Reference Committee,
121, Royal Courts of Justice,
London, W.C.2.

I/WE HEREBY GIVE NOTICE of my/our intention to refer/appeal under sub-rule (2) of Rule 7/Rule 14/Rule 15 of the above-mentioned Rules and apply for the selection of an arbitrator to hear and decide the matter of which particulars are subjoined.

The persons whose names and addresses appear in the subjoined particulars and to whom a copy of this Notice is being sent include all the persons whom I/we know or believe to be interested persons in relation to this reference/appeal.

Signed.....
Dated.....

PARTICULARS

Name and address of Applicant(s).....

Name and address of Applicant(s) Solicitor or Agent (if any)

If a Reference

Matter referred for decision.....

Whether an appeal involving after damage value of land in the hereditament has been made in accordance with the provisions of the War Damage Act, 1943, or any amendment or re-enactment thereof.

If an Appeal

The nature and amount of the value(s) which is/are disputed.....

Grounds of appeal

In either case

Situation and description of the hereditament affected.....

Nature of interest of Applicant.....

Other interested persons stating :—

Names and Addresses	Names and Addresses of Solicitors or Agents (if any)	Nature of Interest

Strike out paragraphs or words which are inapplicable.

B

APPLICATION FOR LEAVE TO WITHDRAW REFERENCE/APPEAL

TOWN AND COUNTRY PLANNING ACT, 1944

*Acquisition of Land (Compensation for War Damaged Land) Rules, 1945**Application for leave to withdraw Reference/Appeal*

To the Arbitrator,

Or to The Secretary to the Reference Committee,

121, Royal Courts of Justice,

London, W.C.2.

I/We hereby apply for leave to withdraw my/our Reference/Appeal in respect of which notice was given on the.....day of....., 19....., on the following grounds :—

Signed.....

Dated.....

C

FORM OF DECISION OF ARBITRATOR

TOWN AND COUNTRY PLANNING ACT, 1944

*Acquisition of Land (Compensation for War Damaged Land) Rules, 1945**Decision of Arbitrator on Reference/Appeal**Reference No.*

In the matter of a Reference/Appeal under sub-rule (2) of Rule 7/Rule 14/Rule 15 of the above Rules by Notice dated the.....day of....., 19....., given at the instance of.....the.....of..... certain war damaged hereditaments being the subject of a compulsory purchase and being situate at.....in the County of.....

Now I, A.B., the Arbitrator selected by the Reference Committee for England and Wales to determine the said Reference/Appeal, having heard the same decide as follows :—

Signed.....

Arbitrator.

Dated.....

D

FORM OF AMENDMENT OF DECISION OF ARBITRATOR

TOWN AND COUNTRY PLANNING ACT, 1944

*Acquisition of Land (Compensation for War Damaged Land) Rules, 1945**Amended Decision of Arbitrator*

Whereas on the.....day of....., 19....., I made my decision on the Reference/Appeal of.....by Notice dated the.....day of....., 19....., and Numbered.....in respect of certain war damaged hereditaments being the subject of a compulsory purchase and being situate at.....in the County of..... And Whereas on the.....day of....., 19....., a case was stated and signed by me for the opinion of the High Court/County Court who on the.....day of....., 19....., gave directions as to the amendment of my said decision.

Now in pursuance of the said directions I hereby amend my said Decision and decide as follows :—

Signed.....

Arbitrator.

Dated.....

[1538]

THE TOWN AND COUNTRY PLANNING (GENERAL TRANSITIONAL) AMENDMENT ORDER, 1945

S. R. & O., 1945, No. 1304

October 19, 1945

The Minister of Town and Country Planning (hereinafter called "the Minister") in exercise of the powers conferred upon him by the proviso to sub-section (2) of Section 52 of the Town and Country Planning Act, 1932, as amended by Section 11 of the Town and Country Planning (Interim Development) Act, 1943, and of all other powers enabling him on that behalf, hereby orders as follows :—

1. This Order may be cited as the Town and Country Planning (General Transitional) Amendment Order, 1945, and shall come into operation on the date hereof. [1539]

2. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to an Act of Parliament. [1540]

3. The Town and Country Planning (General Transitional) Order, 1933 (hereinafter called "the Principal Order"), shall be amended as follows :—

- (1) In paragraph (a) of Article 3 the words "five years" shall be substituted for the words "24 months".
- (2) In the proviso to Article 4, the words "five years" shall be substituted for the words "twenty-four months".
- (3) In Article 5 the words "four years and six months" shall be substituted for the words "eighteen months".
- (4) In Article 6, the words "four years and six months" shall be substituted for the words "eighteen months".
- (5) In Article 7, the words "four years and three months" shall be substituted for the words "fifteen months".

Provided that in reckoning any period referred to in Articles 3 to 7 of the Principal Order, as amended by this Article, no account shall be taken of any period by which the Minister has, under Article 10 of the Principal Order, extended such period. [1541]

* * * * *

THE TOWN AND COUNTRY PLANNING AMENDMENT REGULATIONS (NO. 2), 1945

*S. R. & O., 1945, No. 1643 **

December 21, 1945

The Minister of Town and Country Planning in pursuance of the powers conferred on him by the Town and Country Planning Act, 1932, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as the Town and Country Planning Amendment Regulations (No. 2), 1945, and shall come into force on the date hereof. [1542]

2. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1543]

3. The following paragraph shall be substituted for paragraph (1) of Article 12 of the Town and Country Planning Regulations, 1933 (hereinafter called "the principal Regulations") :—

- (1) Where the Local Authority do not proceed by way of a preliminary statement, they shall prepare and by resolution adopt a draft scheme, in the case of a resolution to prepare a scheme which takes effect after the 1st day of January, 1946, not later than two years, and in the case of a resolution which took effect before that date, not later than five years, from the date on which the resolution took effect.

Provided that in reckoning the said period of five years no account shall be taken of any period by which the Minister has under Article 35 of these Regulations extended the time for the preparation and adoption of the draft scheme. [1544]

* These Regulations supersede the Provisional Regulations to like effect dated October 19, 1945, and which came into force on that date.

4. The following paragraph shall be substituted for paragraph (1) of Article 14 of the principal Regulations :—

- (1) The Local Authority shall, in the case of a draft scheme adopted after the 1st day of January, 1946, within nine months, and in the case of a draft scheme adopted before that date, within three years and nine months, from the date of the resolution adopting the draft scheme, pass a resolution making the scheme with or without modification of the draft scheme.

Provided that in reckoning the said period of three years and nine months no account shall be taken of any period by which the Minister has under Article 35 of these Regulations extended the time for the making of the scheme. [1545]

* * * *

THE TOWN AND COUNTRY PLANNING ACT, 1944, COM- PULSORY PURCHASE (APPOINTED DAY) ORDER, 1945

S. R. & O., 1945, No. 1666

December 28, 1945

The Minister of Town and Country Planning in exercise of the powers conferred upon him by subsection (1) of Section 1 of the Town and Country Planning Act, 1944, hereby orders and appoints the 1st day of January, one thousand nine hundred and forty-six to be the date on which it has become practicable for a local planning authority to make an application to him for a Declaratory Order for the purposes of the said Section 1. [1546]

* * * *

THE TOWN AND COUNTRY PLANNING ACT, 1944 (REGISTRATION OF ORDERS) RULES, 1945

S. R. & O., 1945, No. 1677/L. 24

December 27, 1945

I, William Allen Baron Jowitt, Lord High Chancellor of Great Britain by virtue and in pursuance of section 17 of the Town and Country Planning Act, 1944, and section 15 of the Land Charges Act, 1925, do hereby make the following Rules.

1. These Rules may be cited as the Town and Country Planning Act, 1944 (Registration of Orders) Rules, 1945, and shall come into operation on the first day of January, 1946. [1547]

2.—(1) In these Rules, except as otherwise expressly provided and save where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

- (a) "the Act of 1925" means the Land Charges Act, 1925 ;
- (b) "the Act of 1944" means the Town and Country Planning Act, 1944 ;
- (c) "compulsory purchase order" means an order made under Part I of the Act of 1944 authorising a compulsory purchase of land ;
- (d) "declaratory order" means an order made under section 1 of the Act of 1944 ;

- (e) "parcel of land" means a piece of land or a building or a part of a building in separate occupation or separately rated at the time of the requisition for search ;

For the purpose of this definition any land or building or part of a building which is neither in occupation nor rated shall be deemed to be occupied by the person who is the owner thereof within the meaning of the Public Health Act, 1936.

- (f) "purchasing authority" means any local authority, Minister of the Crown, or other person or body purchasing under the Act of 1944 ;
- (g) "the Register" means the register of local land charges required to be kept in pursuance of the Act of 1925 ;
- (h) "the registrar" means the proper officer of the local authority required to register the compulsory purchase order or declaratory order, as the case may be, in the register in pursuance of section 17 of the Act of 1944.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) In these Rules unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended by or under any other enactment. [1548]

3. Compulsory purchase orders and declaratory orders which are registrable by virtue of section 17 of the Act of 1944, shall be registered in a new part of the Register, to be known as Part VI. [1549]

4.—(1) Every entry in Part VI of the Register shall contain :—

- (a) a reference to the title of the compulsory purchase order or declaratory order ;
- (b) the name of the purchasing authority authorised by the compulsory purchase order, or, as the case may be, of the authority on whose application the declaratory order was made ;
- (c) a sufficient description, by reference to a map or plan, of the land which is or will be affected by the order ;
- (d) in the case of a compulsory purchase order, a reference to any declaratory order which, at the date of registration of the first-named order, may have been made affecting the land included in such compulsory purchase order ;
- (e) notice of the place at which inspection may be made of a copy of the order certified by or on behalf of the Minister by whom it was made or confirmed, as the case may be, in exercise of powers conferred by Part I of the Act of 1944, and of any map or plan referred to in or illustrating the order ;
- (f) the date on which the order was made or confirmed by the Minister as aforesaid ;
- (g) the date of registration of the order.

(2) The index to the Register shall include entries in respect of Part VI of the Register for the purpose of enabling a person to trace any entry in the said Part VI.

(3) It shall be the duty of the registrar to enter in the Register particulars of the cancellation or any modification of a compulsory purchase order or declaratory order registered under Part VI as soon as may be after notification of the cancellation or modification has been given to him in writing by or on

behalf of the purchasing authority or, as the case may be, the authority on whose application the declaratory order was made. [1550]

5.—(1) Applications for registration of compulsory purchase orders and declaratory orders and notifications of modification or cancellation of entries in respect thereof delivered by post or under cover during the hours in which the office of the registrar is open for registration shall be treated as having been made or given immediately before the closing of the office for that day.

(2) Applications for registration of compulsory purchase orders and declaratory orders and notifications of modification or cancellation of entries in respect thereof delivered (whether by post or otherwise) between the hours of closing and of the next opening of the office for registration shall be treated as having been made or given immediately after such opening. [1551]

6.—(1) Any person may search in Part VI of the Register and in the Index to the Register upon paying the appropriate fee prescribed by the Second Schedule to these Rules.

(2) Any person desiring to make a personal search in Part VI of the Register shall, if so required by the registrar, furnish his name and address and indicate by reference to a plan or otherwise the parcel or parcels of land in respect of which he proposes to search. [1552]

7.—(1) The provisions of sub-sections (1), (2), (7), (8) and (9) of section 17 of the Act of 1925 (which relate to official certificates of search) shall apply in respect of Part VI of the Register.

(2) Every requisition for search made under the said provisions as applied by this Rule shall be in writing signed by the person making the same or by the solicitor acting for the person requiring the search to be made, and shall define the land in respect of which the search is to be made by means of a plan drawn to scale and (except where the applicant does not require a plan to be returned) furnished in duplicate, or by any other means sufficient to enable the land to be identified.

(3) A requisition for search in all or any of Parts I to V of the Register may include a requisition for search in Part VI, and any form prescribed by Rules made under the Act of 1925 for the purpose of requisitions for search and official certificates of search in Parts I to V of the Register may be used accordingly :

Provided that the schedule to an official certificate of the result of a search in Part VI of the Register shall be in the form set out in the First Schedule hereto.

(4) An official certificate of the result of search in Part VI of the Register shall extend to registrations effected during the day of the date of the certificate, and shall be issued only after the registry is closed for registration on that date.

(5) A separate requisition for search in Part VI of the Register shall be made in respect of each parcel of land in respect of which search is requested, except where a certificate is required in respect of two or more contiguous parcels of land for the purpose of the same transaction. [1553]

8. The fees payable for the registration, modification, or cancellation of entries and for searches and official certificates of search, in respect of Part VI of the Register, shall be those specified in the Second Schedule hereto. [1554]

FIRST SCHEDULE

PART VI.—REGISTER OF COMPULSORY PURCHASE ORDERS AND DECLARATORY ORDERS UNDER THE TOWN AND COUNTRY PLANNING ACT, 1944

Particulars of any declaratory order made under Section 1 of the Act of 1944, and for the time being in operation 1.	Particulars of any compulsory purchase order made under Part I of the Act of 1944 and for the time being in operation 2.	Reference to any declaratory order which relates to land included in an order mentioned in column 2 3.	Name and address of authority who promoted the order mentioned in columns 1 or 2 4.	Place at which inspection may be made of any of the orders referred to in columns 1 and 2 and any map or plan referred to in or illustrating such orders 5.	Date of confirmation, or making of order 6.	Date of registration of order 7.

[1555]

SECOND SCHEDULE

FEES

1. On registration of a compulsory purchase order or declaratory order, where the order is registrable by the Registrar of an authority other than the purchasing authority or, as the case may be, the authority on whose application the declaratory order was made :—

	s.	d.
(i) in the case of a compulsory purchase order, per entry	2	6
(ii) in the case of a declaratory order, per entry	10	0

2. On modification or cancellation of any entry in Part VI of the Register (where the entry was made in the circumstances mentioned in Fee No. 1) 1 6

3. On personal search in Part VI of the Register (except where such search is made in respect of the whole of the Register and payment has been made in respect thereof) 2 0

In addition (but subject to a maximum additional charge of fourteen shillings) in respect of each parcel of land above one, where the search extends to several parcels of land 1 0

4. For an official search (including issue of certificate) in Part VI of the Register (except where such search is made in respect of the whole of the Register and payment has been made in respect thereof) 2 0

In addition (but subject to a maximum additional charge of twenty-one shillings) in respect of each parcel of land above one, where several parcels are, in accordance with the provisions of paragraph (5) of Rule 7, included in the same requisition, where such requisition is for search in Part VI of the Register and does not form part of a requisition for search in the whole or any other part of the Register in respect of which such additional payment has been made 1 6

5. For an office copy of any entry in Part VI of the Register (not including a copy or extract of any plan or document filed in the Registry) 2 6

6. For an office copy of any plan or other document filed in the Registry, in respect of Part VI of the Register, such reasonable fee as may be fixed by the local Registrar according to the time and labour involved..

Unless the context otherwise requires, "entry" for the purpose of this Schedule includes all entries made or required to be made in Part VI of the Register in respect of the relevant order.

All fees shall be prepaid. [1556]

Circular No. 11.

Local Planning Authorities, County Councils and Joint Town and Country Planning Committees (England and Wales).

MINISTRY OF TOWN AND COUNTRY PLANNING,
32, ST. JAMES'S SQUARE,
LONDON, S.W.1.

April, 1945.

SIR,

Town and Country Planning Act, 1944

1. I am directed by the Minister of Town and Country Planning to draw attention to the Town and Country Planning Act, 1944, which became law on the 17th November last. [1557]

2. The Act is a further instalment of the legislation proposed by the Government in order to bring into being an effective system for the planning of land throughout England and Wales. The particular contribution it makes is to confer upon Local Planning Authorities new and positive powers for the redevelopment and modernisation of towns and cities. It is based on

the recognition that many urban areas can only be satisfactorily reconstructed by means of large-scale public acquisition of the land involved. Further, it provides a wide range of powers for securing that the land so acquired is brought into use for its appropriate purpose under comprehensive proposals for reconstruction, including power for the Authority, if need be, themselves to carry out any necessary development. [1558]

3. The Minister desires that Planning Authorities should recognise the true significance of the Act and should use promptly and to the full the opportunities which it offers them. In order, however, that full advantage may be taken of those opportunities it is essential that the powers of the Act should be exercised in relation to a broadly conceived plan showing in outline how the town as a whole should be reconstructed. By these means such improvements as are urgently necessary in war damaged areas, and those which in due course may be proposed in obsolescent areas, can be considered and carried out as organic parts of a long-term programme of reconstruction. [1559]

4. It is of great importance that every Local Planning Authority which is faced by the task of reconstructing an "area of extensive war damage" should, to the fullest extent that the present shortage of staff allows, work out its proposals before the time comes when actual rebuilding can begin. It should endeavour to be ready with both an outline plan for the whole town and with detailed proposals for the redevelopment of areas of extensive war damage. [1560]

5. The Minister proposes to issue . . . a series of circulars and memoranda dealing, as may become necessary and desirable, with particular provisions of the Act or particular aspects of the reconstruction process. The question of immediate urgency is the restoration of war damaged areas, and Circular No. 12, copies of which are being sent with this Circular, deals with the first stage in that process, namely, the acquisition of land in those areas and in associated "overspill" areas. A further circular on finance will be issued at an early date. [1561]

6. In the main, however, the Minister will rely, not on circulars and memoranda, but on full and frequent discussions between representatives of his Department and of Planning Authorities as the best means of assisting Authorities in a task at once novel in character and far-reaching in importance. [1562]

7. An additional copy of this circular is enclosed for the use of the Planning Officer. [1563]

I am, Sir, etc.

* * * * *

Circular 12.

Local Planning Authorities, County Councils and Joint Town and Country Planning Committees (England and Wales).

MINISTRY OF TOWN AND COUNTRY PLANNING,
32, ST. JAMES'S SQUARE,
LONDON, S.W.1.

April, 1945.

SIR,

Town and Country Planning Act, 1944

1. I am directed by the Minister of Town and Country Planning to explain that, as stated in paragraph 5 of Circular 11, the present circular deals with a question of immediate urgency that arises in restoring war-damaged areas, namely the acquisition of land in those areas and in associated "overspill" areas. [1564]

The Acquisition of Land in Areas of War Damage.

2. Those parts of the Act which relate to the restoration of war-damaged areas are so framed that action appropriate to a situation of urgency may be taken. The first step is necessarily the acquisition of land. [1565]

3. The underlying object of the Act is, however, that the land acquired should be redeveloped in such a way that a comprehensive pattern of re-development, properly related to the planning of the surrounding area, eventually results. It is the responsibility of the Minister under the Act to see that the land acquired is disposed of or appropriated in accordance with proposals of the Authority which will secure such a pattern, and the proposals must, moreover, be approved by him for the purposes of grant. In order, therefore, that he may be in a position to discharge his responsibilities effectively, he will require, at some stage before the land is disposed of or appropriated, the submission of a plan showing in detail how land acquired under the Act in an area of extensive war damage is to be laid out afresh and redeveloped as a whole. The plan must show, not only the internal arrangements of the area, but also its relation to the existing or intended lay-out of the surrounding locality. Similarly, the Minister will require the submission of a plan showing how any associated overspill area is to be developed. [1566]

4. Apart altogether from any question of legal obligation under the terms of the Act, practical considerations alone make the preparation of plans necessary; for such plans form the essential working drawings without which, however far the acquisition of land may have gone, rebuilding cannot take place. Secondly, even as regards the preliminary stage of the acquisition of land, the justification for acquisition will often turn on specific redevelopment proposals, the early preparation of which, even if only in broad form, will be a necessary first step. Thirdly, although it may be possible for the Minister to authorise acquisition of land on the submission of proposals which are only broadly stated, the comprehensive redevelopment of an area is of such far-reaching importance to the community that all interests should, at some stage or other, be afforded an opportunity of making representations and being heard upon the detailed proposals for redevelopment. This necessity for submitting a detailed plan to the Minister should, therefore, be kept steadily in view by the Authority from the outset. Substantial advantages may be gained if it is submitted early in the process of dealing with the war-damaged areas. Provided, however, that due regard is paid to this underlying need, the aim should be to choose from among the alternative procedures for purchase described in paragraphs 7-11 below, the one which, in the circumstances of the individual case, is most likely to secure the rapid progress of restoration. The precise programme of the Authority will depend on the particular procedure it is decided to follow. That there should be such a programme from a very early date is important. [1567]

5. A preliminary question to be considered is whether the land to be redeveloped should be dealt with as one area of war damage or, at all stages, as separate areas. The war damage may, for example, have occurred in more than one place. On the other hand, the area in which damage has occurred, although in itself continuous, may, for the purpose of redevelopment, be suitably divisible into two or more smaller areas. In deciding whether it is practicable and desirable to split the proposals, the need to secure harmony in the redevelopment proposals as a whole must be borne in mind. Accordingly, even though areas in which war damage has occurred may be physically separate, it may often be undesirable if not impracticable to consider them in isolation when preparing proposals for redevelopment. In other instances it may, even in a continuous area of war damage, be possible, without detri-

ment to the harmony of the redevelopment proposals as a whole, to prepare the proposals in detail for one part of the area in advance of the proposals for the rest of the area, and if the redevelopment of that part is urgent there would be advantage in this course. [1568]

6. A consideration to be borne in mind is that separation of the proposals will entail some duplication of procedure and will thus in the long run be likely to create delay in their completion as a whole. On the other hand, where there is a serious shortage of staff, the urgent need to complete the redevelopment in part of the area may suggest the wisdom of proceeding first with proposals for that part. Circumstances will vary in each case. The advantages should be carefully weighed against the disadvantages before a decision is made. [1569]

7. When a decision has been reached on these questions, the choice of procedure under the Act in regard to the acquisition of land lies between three main courses and is in part determined by the progress which has been made with the preparation of proposals for redevelopment :—

- (1) If the preparation of redevelopment proposals is well advanced the Authority will be in a position to apply to the Minister for a declaratory order under Section 1 for the whole area to be redeveloped, supporting their application (as required by subsection (6) of that Section) by information regarding their proposals for redevelopment. The extent to which the information to be furnished at this stage needs to be detailed is considered in paragraph 9 below.
- (2) If, at the other extreme, the Authority are not yet able to submit proposals for redevelopment, even in broad outline, the circumstances may be such as to justify recourse to procedure under Section 2 (2). But this procedure is only applicable where the case for the acquisition of the area in question is both urgent and self-evident. (See paragraph 10 below.)
- (3) In between (1) and (2) there will be cases in which it is possible to proceed under Section 1 for part of the area for which proposals for redevelopment are complete and under Section 2 (2) for other parts in respect of which the proposals are incomplete. A Section 1 order for one part of an area could, of course, be made contemporaneously with the submission of an order under Section 2 (2) in respect of another part. (See paragraph 11 below.)

It may indeed sometimes be desirable, even though the Authority may be in a position to make application for a declaratory order under Section 1 and to support it by information regarding their redevelopment proposals, that they should nevertheless proceed under Section 2 (2) for part of the area. This will, of course, again depend on circumstances, the governing consideration being the time likely to elapse between the submission of the application under Section 1 and the making of the order. If the area to be redeveloped is large, and the problems arising on the redevelopment difficult, this period may be several months. If, where that is likely to be the case, part of the area could be dealt with under Section 2 (2), and the redevelopment of that part is particularly urgent, there would be advantage in taking action under the subsection. [1570]

8. As regards course (1), it is open to the Authority to submit the complete details of their proposals for redevelopment with the intention that those details shall be published and considered, not only in support of the application for designation, but as the foundation upon which the subsequent redevelopment will proceed. There are obvious advantages in this course where it is practicable. Section 1, however, only requires that the Minister

shall be satisfied " that the particulars appearing from the application and the statement are adequate for enabling the expediency of the making of an order to be properly considered." [1571]

9. What particulars should be indicated in the statement must necessarily depend on circumstances. On the one hand, there will be cases where the lay-out before the war damage was so bad that a broad indication of the redevelopment proposals will be sufficient to justify acquisition. On the other hand there will be cases in which the justification for acquisition of a particular part of an area will depend on a precise statement of specific proposals in the new plan, e.g. the exact siting or width of a by-pass road. In the former type of case it may prove relatively easy to provide " adequate particulars and therefore to proceed at an early stage with an application under Section 1. In the latter type of case the position is obviously more difficult, since the justification for the purchase of the area selected may at the critical point depend on fairly detailed considerations. The extent to which this is necessary to support an application made under Section 1 must be for the Authority to decide in the first instance, but it would rarely be prudent to seek to justify acquisition by reference to specific proposals unless, subject only to relatively minor adjustments, the Authority were prepared and able to defend them under challenge. The particulars which will normally be required are indicated in the Appendix. [1572]

10. As regards course (2), the essential condition which must be satisfied before action can be taken under Section 2 (2) is that, apart from the prejudice to the public interest arising from any postponement, the acquisition must be justifiable simply by reference to the existing state of the area. This condition is seldom likely to be fulfilled as regards the whole of the area to be redeveloped. For this reason the course in (3) is likely to be the more practicable one where the Local Planning Authority have not worked out their proposals for redevelopment with a considerable degree of precision for the whole area. The kind of information necessary to support an application under Section 2 (2) is set out in the Appendix. [1573]

11. An important advantage of course (3) is that time may be saved by pressing on with the acquisition of land under Section 2 (2) so far as that is possible within the terms of the subsection, while the Authority are engaged in working out their proposals for the redevelopment of the whole area ; but it is no less important to complete those proposals as soon as possible so as to avoid delay in the process of restoration at stages subsequent to acquisition. [1574]

12. The Fifth Schedule to the Act (paragraph 9) provides a means by which unfit houses on land which the Local Planning Authority propose to purchase compulsorily under the Act may be formally declared unfit by an order confirmed by the Minister of Health and then acquired at cleared site value, as they would be if they were dealt with under the Housing Act, 1936. Time will be saved if, where there are such houses on the land to be purchased, an order is submitted to the Minister of Health at an early stage. [1575]

Overspill Areas

13. Proposals for what the Act terms " relocation of population and industry " will often form an essential counterpart to those for the redevelopment of the area of extensive war damage. The Authority should from the outset consider what provision is necessary for this purpose. " Overspill " areas are unlikely to require the preliminary work of clearing which will be necessary in areas of war damage, and it may therefore be possible to put

building in hand before this is practicable in the area of war damage. This may be necessary, either if there is a substantial population to be moved from the area to be redeveloped before redevelopment operations there can proceed, or if, on the close of hostilities, population, for the time being elsewhere, will tend to return to the original area in the absence of alternative accommodation. [1576]

14. An overspill area may be in the district of an Authority (termed in the Act the "Area" Authority) other than the Authority for the war-damaged area (the "Promoting" Authority) and in such a case the Minister may authorise either the Promoting Authority or the Area Authority to acquire the land and carry out development under the powers of the Act. In either case the relations of the two Authorities will be very close, and early consultation between them, and with the Minister's officers, is most necessary. The essence of the problem of selecting and developing an overspill area lies, first, in the successful creation of a new community, or the planned extension of an existing one, and, secondly, in doing so without upsetting the proper balance of town and country through suburban encroachment. [1577]

Co-operation with Statutory Undertakers

15. For many reasons early consultation with statutory undertakers regarding the proposals for the redevelopment of the war-damaged area and the development of an overspill area is most important. If, as will often be the case, the proposals would involve interference with the statutory undertaking, agreement with the undertaker may avoid subsequent delay, since a maintained objection of the undertaker to the acquisition of his land would entail the reference of the matter to Parliament. The need, however, for consultation on this ground is strongly reinforced by another consideration. The co-operation of statutory undertakers may be essential to the carrying into effect of the proposals of the Authority, particularly if an extension of services to overspill areas is necessary. Moreover, both cost and technical problems may set a limit to the adjustments of an undertaking which are practicable at an early date, and, since the programme of the Authority may be radically altered if particular adjustments cannot be carried out at the due date, it is essential that the position in this respect should be ascertained at a very early stage. [1578]

Co-operation with other Local Bodies

16. The process of redevelopment may involve co-operation with a number of different Authorities besides the Area Authority of an overspill area already referred to in paragraph 14. The circumstances will vary and each case should be specially considered :

(1) Executive Joint Planning Committees

Some Local Planning Authorities who propose to redevelop areas of war damage have delegated to a Joint Planning Committee their powers and duties in respect of the preparation of planning schemes under the Town and Country Planning Act, 1932. This delegation does not extend to the additional powers now conferred on Authorities by the 1944 Act. If, therefore, it is desired to delegate powers under Section 1 of the Act to a Joint Planning Committee a separate resolution will be required. The powers of acquisition and disposal cannot in any case be delegated. [1579]

17. In the Minister's view Joint Planning Committees, even though powers under the 1944 Act are not delegated to them, have an important function to perform wherever the redevelopment proposals of the Promoting Authority affect those wider areas for which such committees are responsible, for example in connection with the location of overspill. Joint Planning Com-

mittees should therefore be fully consulted at an early stage, and if there is any difficulty in reaching agreement with them the Minister should be informed. The broad issues suitable for consideration by them are likely to be fundamental to the proper planning of the area. It is accordingly important that any difference of view should be resolved without delay before the proposals of the Promoting Authority are worked out in sufficient detail for formal submission. Even where there is no Joint Committee similar considerations apply to consultation with neighbouring Authorities including County Councils. [1580]

18. Although, as will be clear from the previous paragraph, the Minister attaches great importance to the consultative part to be played by Joint Planning Committees, he appreciates that in most cases it may prove most convenient for the formal action under the 1944 Act to be taken by the individual Authority most closely concerned. [1581]

(2) *Highway Authorities*

19. The acquiring Authority under Sections 1 and 2 may also be the Highway Authority for the whole of the area to be acquired, but in some instances one or more Highway Authorities as well as the acquiring Authority, may be concerned. Close co-operation between them will then be of particular importance. The highway proposals and the other proposals of the plan are necessarily interdependent. It is impossible to make a change in the one without affecting the rest. Accordingly it is important that from the outset the Planning and the Highway Authority should each, in preparing their proposals, have regard to the aims and requirements of the other. [1582]

(3) *Other Authorities*

20. Consultation may also be needed with other statutory bodies, e.g. Joint Hospital Boards, Catchment Boards, or, in some circumstances, Education Authorities. They may be less intimately concerned with the plan than Highway Authorities, but it will usually be found that if any consultation or administrative liaison is necessary it will be worth while making it as early and as full as possible in order that the proposals of the Planning Authority may be framed throughout with knowledge of any special requirements of the body concerned. Standing joint committees of the technical officers concerned have often been found valuable. Joint committees of Councillors or mutual co-option of representatives of one Authority on to the Committees of another may also be useful. The arrangements in any particular district need to be made in the light of the local circumstances. [1583]

Co-operation with Government Departments

21. Redevelopment operations must necessarily concern a wide range of Government Departments whose regional representatives, if any, should be fully consulted. The Minister is most anxious to assist Local Planning Authorities in this matter by correlating the views expressed by Departments on redevelopment proposals. This is one of the principal reasons, but, as appears from foregoing paragraphs, by no means the only one, why he urges the importance of full consultation with his officers at an early stage. [1584]

22. An additional copy of this circular is enclosed for the use of the Planning Officer. [1585]

I am, Sir, etc.

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APPENDIX TO CIRCULAR 12

I. *Information which should accompany an application under Section 1 (1).*

The following particulars should normally accompany an application for an Order under Section 1 (1) for the designation of an area of extensive war damage. Where the particulars required are to be shown in map form, the appropriate notation is indicated in the right-hand column.

Map A.1.

A map to a scale of not less than 6" to a mile showing :—

- | | |
|--|--|
| (i) The boundary of the area of the Local Authority. | Inner edge of a broad light grey line. |
| (ii) The boundary of the part or parts of the Local Authority's area to which the application relates. | Inner edge of a broad dark grey line. |
| (iii) Land within (i) and (ii) which has sustained war damage. | Carmine. |

NOTE :—For the purpose of map A.1, land which has sustained war damage should be taken to include buildings seriously damaged but capable of repair as well as buildings totally destroyed or damaged beyond repair. It will be sufficient if areas of war damage are indicated broadly : damage to individual buildings need not be shown.

Map A.2.

A map to a scale of not less than 1/2,500 showing :—

- | | |
|--|---------------------------------------|
| (i) The boundary of the area to which the application relates. | Inner edge of a broad dark grey line. |
| (ii) Within the area referred to in (i), the following particulars should be shown :— | |
| (a) Land which has sustained war damage :— | |
| (1) buildings totally destroyed or damaged beyond repair ; | Carmine. |
| (2) buildings seriously damaged but capable of repair. | Blue. |
| (b) Land cleared under the Housing Acts (whether by clearance area or demolition order procedure). | Edged and cross-hatched carmine. |
| (c) Land included in a clearance area or a demolition order confirmed under the Housing Acts, but not yet cleared, or on which the buildings have not yet been demolished. | Edged and hatched carmine. |
| (d) Land included in a clearance area in respect of which a clearance order or a compulsory purchase order has been submitted to the Minister of Health but not yet confirmed. | Edged carmine. |
| (e) Land not to be acquired. | Edged and hatched black. |
| (f) Land already owned by the Local Authority. | Edged brown. |
| (g) Land owned by Statutory Undertakers. | Edged purple. |
| (h) Trunk roads. | Light yellow. |
| (i) Classified roads. | Light orange. |
| (j) Standard widths of roads already approved under the Restriction of Ribbon Development Act, 1935. | Thin green lines and hatching. |
| (k) Street improvements for which statutory authority has been secured but which have not yet been carried out. | Thin broken green lines. |

NOTES :—

(a) Additional information in support of the Authority's case which cannot conveniently be shown in map form should be set out in a written statement. This should include a statement of the acreage of the area to which the application relates.

(b) Where there are buildings on the land, the colouring (which should not be opaque) should cover the whole of the curtilages.

(c) Where land not to be acquired under (ii) (e) is Crown Land, this should be indicated by the letters Cr.

(d) "Land owned by Statutory Undertakers" under (ii) (g) should include *all* land owned by any undertaker within the area. Where the Authority is a statutory undertaker, land held for the purposes of the undertaking should be shown edged brown with an outer edging of purple.

Map A.3.

A map to a scale of not less than 1/2,500 giving particulars of pre-damage uses. This should be on the basis of Surface Utilisation Map No. 6 of the Ministry of Town and Country Planning Notation for Basic Survey (Provisional).*

NOTES :—

The amount of detailed information as to pre-damage uses which should be submitted may vary according to the circumstances of the individual application. Where the pre-damage lay-out was so unsatisfactory that the case for acquisition rests almost wholly on that ground, the Authority might consider it unnecessary to submit anything so detailed as Surface Utilisation Map No. 6. Where, however, the case for acquisition depends to a substantial extent on the unsatisfactory nature of pre-damage use as well as on unsatisfactory lay-out, it would usually be desirable that the Authority should submit Surface Utilisation Map No. 6.

Where the Authority wish to submit something less detailed than Surface Utilisation Map No. 6, the question should be discussed with the Regional Planning Officer. Notation should always be in accordance with Surface Utilisation Map No. 6.

Map A.4.

Where the age of the buildings left standing in the area to which the application relates is a factor which needs to be taken into account in considering the application, a separate map should be submitted to a scale of not less than 1/2,500. Notation should be as follows :—

- (1) Buildings erected prior to 1875—deep vandyke brown.
- (2) Buildings erected from 1875 to 1914—orange.
- (3) Buildings erected from 1914 to date—yellow.

Where necessary, the period should be varied to suit local conditions.

Statement under Section 1 (6).

The question of the particulars to be submitted under Section 1 (6) is dealt with, so far as it is possible to do so generally, in paragraph 9 of this Circular. The plan showing the proposals which the Authority propose to submit should be discussed at an early stage with the Regional Planning Officer.

II. Information which should accompany an application under Section 1 (2).

The following particulars should normally accompany an application for an Order under Section 1 (2) for the designation of an "Overspill" area :—

Map B.1.

A map to a scale sufficient to show the position of the area to be designated in relation to the war damaged area. Where the area to be designated is within the boundary of the Promoting Authority, the map should normally be to a scale of not less than 6" to a mile.

* Any Authority which has not already received a copy of this memorandum can obtain one on application to the Ministry's headquarters.

Map B.2.

A map to a scale of not less than 1/2,500 showing :—

- (i) the boundary of the area to which the application relates ;
- (ii) within (i), such of the particulars required for Map A.2 as are relevant to the application in question.

The notation should be the same as for Map A.2.

Map B.3.

A map to a scale of not less than 1/2,500 giving particulars of the present uses of the area which is the subject of the application. The particulars required will be the same as in the case of Map A.3 and the same comments apply, with the qualification that information as to existing uses is likely to be particularly important in the case of an application under Section 1 (2). The notation should be the same as for Map A.3.

Statement under Section 1 (6).

This should be presented in the same way as the supporting statement required in the case of an application under Section 1 (1) but should include in addition, a full statement of any proposed agreement under Section 12 of the Act. (See paragraph 14 of this circular.)

III. Information which should accompany an application under Section 2 (2).

The following particulars should normally accompany an application under Section 2 (2) for authority to purchase land which has sustained extensive war damage :—

Map C.1.

A map to a scale of not less than 6" to a mile showing the same particulars and with the same notation as for Map A.1.

Map C.2.

A map to a scale of not less than 1/2,500 showing such of the particulars required for Map A.2 as are relevant to the application in question. The notation should be the same as for Map A.2.

Map C.3.

A map to a scale of not less than 1/2,500 showing such of the particulars required for Map A.3 as are relevant to the application in question. The notation should be the same as for Map A.3.

IV. Financial Information.

A general forecast of the ultimate balance-sheet will be necessary for the purposes of applications under Sections 1 and 2 (2). An indication of the way in which such an estimate might be framed will be included in a later circular. [1586]

Circular No. 18.

Local Planning Authorities, County Councils and Joint Town and Country Planning Committees (England and Wales).

MINISTRY OF TOWN AND COUNTRY PLANNING,
32, ST. JAMES'S SQUARE,
LONDON, S.W.1.

8th October, 1945.

SIR,

Sale of Land for Building Purposes

Enquiries before Purchase to ascertain the position under the Planning Acts

1. I am directed by the Minister of Town and Country Planning to say that his attention has been drawn to cases in which land is sold in small lots for building upon which building cannot be allowed consistently with

good planning. Where this happens the requirements of good planning can only be adhered to at the cost of hardship to the individual purchasers, who are frequently persons of small means and not in a position to employ legal aid. To minimise the hardship which results from ill-considered purchases of this nature, the Minister is arranging for the issue of a public announcement warning prospective purchasers of the importance of ascertaining the planning position in advance of purchase by inquiry from the Local Authority for the district in which the land is situated. [1587]

2. The Minister is confident that Local Authorities will co-operate fully in ensuring that inquiries arising from the issue of this warning are dealt with as simply and expeditiously as possible. To facilitate this, he recommends that where more than one Authority is concerned or more than one Department of an Authority, arrangements should be made to deal with inquiries through a single agency, avoiding the need to refer the individual to more than one office. [1588]

3. I am to add for the information of the Authority that the text of the warning is as follows :—

“Land is often offered for sale for building purposes on which, in fact, no building is likely to be allowed. If you buy such land with the intention of building on it, and then find that you cannot get planning permission, you may be left with it on your hands, and be compelled to sell it again at a loss. You may, indeed, find that you cannot sell it at all. It is therefore wise to get advice. You should consult the Local Authority in order that they may tell you whether you would be likely to get permission to build on a particular site or whether you are taking a risk in buying the plot for building purposes.”

A second copy of this circular is enclosed for the use of the Planning Officer. [1589]

I am, Sir, etc.

* * * * *

The Clerk of the Authority.

WATER SUPPLY

STATUTES :—	PAGE	ORDERS, CIRCULARS AND MEMO-	PAGE
Water Act, 1945 - - -	526	RANDA :—	
		Reservoirs Regulations, 1945 -	617
		Water (Compulsory Purchase)	
		Regulations, 1945 - - -	618

STATUTES

WATER ACT, 1945

(8 & 9 Geo. 6, c. 42)

PRELIMINARY NOTE

In April, 1944, the Government introduced a White Paper entitled “A National Water Policy” (Cmd. 6515) and on June 15, 1945, the Water Act, 1945, which follows very closely the proposals in Part I of the White Paper, received the Royal Assent. This Act, which is the most important general Act relating to water passed during the last hundred years, repeals most of the existing legislation in

regard to water, including the whole of the Waterworks Clauses Acts, 1847 and 1863, the Gas and Waterworks Facilities Acts, 1870 and 1873, so far as they relate to water and certain sections of the Public Health Act, 1936. Repeals are dealt with in Schedule V. The Act consists of five Parts and five Schedules.

Part I imposes upon the Minister of Health specific responsibilities for promoting the conservation and proper use of water resources and the provision of water supplies in England and Wales and for securing the effective execution by water undertakers, under his control and direction, of a national policy relating to water (s. 1). It provides for the appointment by the Minister of a Central Advisory Council to advise him on these duties (s. 2) and for the setting up of Joint Advisory Water Committees charged with the planning of the future water supply requirements of their areas (ss. 3, 4). Local authorities and statutory undertakers may be required to carry out similar duties (s. 5). The Minister is also empowered by regulations to require the keeping of records and the furnishing of information by persons abstracting water from any source, other than water for domestic purposes (s. 6). Persons who sink wells or boreholes for water to a depth of fifty feet or more must give prior notice to the Committee for Scientific and Industrial Research and keep a journal of the progress of the work with specific details as to measurements of strata passed through and levels at which water is struck and subsequently rests. They must also allow persons authorised by the Committee to inspect such wells or boreholes and to take specimens of water abstracted (s. 7).

Part II deals with the local organisation of water supplies. It provides for the amalgamation of groups of statutory undertakers and for the formation of joint boards (s. 9), for variation of limits of supply (s. 10), for the supply of water by certain statutory undertakers to premises outside their limits of supply (s. 11), and for the giving and taking by statutory undertakers of supplies of water in bulk (s. 12). If local authorities fail to discharge the duties imposed on them by the Public Health Act, 1936, s. 111, or if statutory water undertakers fail to do anything which they are required to do by the Act, or in any case where the Minister considers that inquiry should be made whether they have so failed, he may order a local inquiry to be held into the matter, and he is given certain powers upon default being established (s. 13).

Part III deals with the conservation and protection of water resources and the prevention of waste. The Minister, if satisfied that special measures for the conservation of water in any area are necessary in the public interest, may make an order defining the area in question, and a licence from the Minister is then required before new wells can be sunk or existing wells extended. The Minister may also impose requirements for conserving water when boring for minerals in such an area, and it is made an offence to allow underground water to run to waste or to abstract it in excess of reasonable requirements from any well or other work (s. 14). Water undertakers are given powers to make agreements as to drainage, etc., to prohibit or restrict in periods of drought the use of hosepipes for watering private gardens or washing private motor cars, and to make byelaws for preventing waste, misuse or contamination of water. In default of proper byelaws being made, the Minister himself may make them and for that purpose may revoke unsatisfactory byelaws (ss. 15-20). The pollution of water used for human consumption is declared an offence (s. 21) and power is given to acquire land and to erect works for the prevention of pollution (s. 22).

Part IV deals with the powers and duties of local authorities and water undertakers. It enables, or provides the machinery for enabling, statutory water undertakers to construct and maintain waterworks and works connected therewith (s. 23), to acquire land by agreement or compulsorily (s. 24), to hold and dispose of land (s. 25), to acquire water rights (s. 26); and it deals with various other matters essential or incidental to the carrying on of water undertakings. In certain circumstances water undertakers are required to supply water for agricultural, industrial, and other non-domestic purposes (s. 27). The duty of local authorities under the Rural Water Supplies and Sewerage Act, 1944, s. 3, to supply water in pipes to rural localities in which there are houses or schools is extended to all localities to which the Public Health Act, 1936, s. 111, applies in which there are houses or schools and in which a supply is not already available. S. 3 of the 1944 Act is accordingly repealed and a new and enlarged s. 111 of the 1936 Act is substituted for the original

s. 111 (s. 28). A new s. 137 (1) of the Public Health Act, 1936, is substituted for the old one and requires a local authority to reject plans for a house unless there is a satisfactory proposal for providing the occupants with a supply of wholesome water sufficient for their domestic purposes by pipes, or, if this is not reasonable, by providing a supply of water within a reasonable distance of the house, and the authority are satisfied that the proposal can and will be carried into effect (s. 29). Other amendments of the water provisions of the Public Health Act, 1936, are made by ss. 30 and 31 of the Act and by Schedule IV. Provision is made for the incorporation in orders made under the Act and for the ultimate application to existing Acts and Orders, of the new standard sections of Schedule III to the Act, which provide a modern Waterworks Code in substitution for the repealed Waterworks Clauses Acts, 1847 and 1863 (s. 32). The Minister is empowered, on the application of any statutory water undertakers, to repeal or amend any local enactment relating to the supply of water by those undertakers (s. 33). The remaining sections of Part IV deal with miscellaneous matters, and the following should be particularly noted : s. 35, which empowers statutory undertakers to sell or hire water fittings to any person to whom they supply water and to install or repair such fittings ; s. 37, which imposes a duty on water undertakers to provide domestic supply for new buildings, subject to the receipt of an undertaking from the owner to pay annually a proportion of the cost of providing and laying the necessary mains and of a deposit by way of security for payment of the annual sums ; s. 38, dealing with liability for, and recovery of, water rates ; s. 40, which empowers the Minister to revise water rates and charges on the application of any statutory water undertakers supplying water under a local enactment, or of a local authority within whose county or district any such undertakers supply water, or of twenty or more persons supplied with water by any such undertakers ; s. 41, which empowers water companies to issue redeemable stock, and s. 42, which provides for the accounts of water companies to be made up annually and for abstracts to be sent to the Minister and to local authorities for the areas of supply.

Part V contains a variety of general matters of which the following may be noticed : compensation of officers of statutory water undertakers whose employment is determined or emoluments diminished in consequence of any order made under the Act (s. 44), penalties for offences against the Act (s. 47), entry of premises (s. 48), inquiries by Ministers (s. 49), power of the Minister to make regulations (s. 51), requirement that all notices, etc., are to be in writing (s. 54), authentication of documents (s. 55), service of notices, etc. (s. 56).

Of the five Schedules to the Act, Schedule I contains the procedure for making orders, approving agreements and making and confirming byelaws, Schedule II contains provisions as to compulsory purchase orders made in pursuance of s. 24, Schedule III contains the new Waterworks Code, which replaces the repealed Waterworks Clauses Acts, 1847 and 1863, and the provisions of which, or any of them, the Minister may, in accordance with s. 32, incorporate in orders relating to water undertakings, Schedule IV makes amendments to the Public Health Act, 1936, and Schedule V contains a list of enactments which are repealed by this Act.

At the end of the Act is printed a Table of Comparison showing sections in the earlier general Acts replaced by the Water Act, 1945. [1590]

ARRANGEMENT OF SECTIONS

PART I

CENTRAL AND LOCAL PLANNING

Section	PAGE
1. Duty of Minister in relation to water	530
2. Central Advisory Water Committee	530
3. Joint Advisory Water Committees	531
4. Duties of Joint Advisory Water Committees	532
5. Power to require local authorities and statutory water undertakers to carry out surveys and formulate proposals	532
6. Power of Minister to require records and information from persons abstracting water	533
7. Facilities for obtaining information as to underground water	533

PART II

LOCAL ORGANISATION OF WATER SUPPLIES

Section	PAGE
8. Joint water boards	534
9. Combination of undertakers and transfer of undertakings by agreement or compulsorily	535
10. Variation of limits of supply by agreement or compulsorily	535
11. Power of Minister to authorise certain statutory water undertakers to supply premises outside their limits of supply	536
12. Supply of water in bulk by agreement or compulsorily	537
13. Default powers of Minister	538

PART III

CONSERVATION AND PROTECTION OF WATER RESOURCES

14. Control of abstraction and prevention of waste in certain areas.. ..	540
15. Agreements as to drainage, etc., of land	542
16. Power to prohibit or restrict temporarily use of hosepipes	543
17. Byelaws for preventing waste, misuse or contamination of water	543
18. Byelaws for preventing pollution of water of undertakers	544
19. General provisions as to byelaws	545
20. Power of Minister to require the making of byelaws, to make byelaws in case of default and to revoke byelaws	546
21. Penalty for polluting water used for human consumption	547
22. Acquisition of land and execution of works for protection of water	547

PART IV

POWERS AND DUTIES OF LOCAL AUTHORITIES AND WATER UNDERTAKERS

Construction of works and acquisition of land and water rights

23. Orders of Minister conferring certain powers on water undertakers. ..	548
24. Power of statutory water undertakers to acquire land by agreement or compulsorily	549
25. Power of statutory water undertakers to hold and dispose of land	550
26. Power of statutory water undertakers to acquire water rights	550

Duty to supply water for non-domestic purposes

27. Supply of water for non-domestic purposes	551
---	-----

Extension of powers and duties of local authorities under the Public Health Act, 1936

28. Extension of duty to provide water supply for houses and schools. ..	552
29. Amendment of s. 137 of the Public Health Act, 1936.	553
30. Amendment of s. 138 of the Public Health Act, 1936.	554
31. Other amendments of Public Health Act, 1936	555

Modernisation of Waterworks Code

32. Incorporation and application by order of provisions of Third Schedule	555
33. Repeal and amendment of local enactments	556

Miscellaneous

34. Temporary discharge of water into watercourses	556
35. Power to supply water fittings	558
36. Duty of statutory water undertakers to accept guarantees from local authorities	559
37. Duty of undertakers to provide domestic supply for new buildings	559
38. Liability for, and recovery of, water rates	560
39. Notice to be given to local authority of water supply to inhabited house being cut off	561
40. Power of Minister to revise water rates and charges	561
41. Power of companies to issue redeemable stock	562
42. Accounts of companies to be made up annually and abstracts sent to the Minister and local authorities	563
43. Appointment of officers as directors	564

PART V

GENERAL

Section	PAGE
44. Compensation to officers of statutory water undertakers.	564
45. False information	565
46. Restriction on right to prosecute	565
47. Penalties for offences	565
48. Entry of premises	565
49. Inquiries by Ministers	566
50. Power to revoke and vary orders	567
51. Regulations	567
52. Expenses of the Minister	567
53. Expenses of Common Council	567
54. Notices, etc., to be in writing	567
55. Authentication of documents	567
56. Service of notices, etc.	568
57. Proof of resolutions, etc.	568
58. Judges and justices not disqualified by liability to rates	569
59. Interpretation	569
60. Provision as to work involving alteration of telegraphic lines	571
61. Saving for protective provisions in other Acts	571
62. Repeals	571
63. Short title, extent and commencement	571

SCHEDULES :

First Schedule.—PROCEDURE FOR MAKING ORDERS, APPROVING AGREEMENTS AND MAKING AND CONFIRMING BYELAWS	571
Second Schedule.—COMPULSORY PURCHASE ORDERS	576
Third Schedule.—PROVISIONS TO BE INCORPORATED IN ORDERS RELATING TO WATER UNDERTAKINGS	578
Fourth Schedule.—AMENDMENTS OF THE PUBLIC HEALTH ACT, 1936	613
Fifth Schedule.—ENACTMENTS REPEALED	614

An Act to make provision for the conservation and use of water resources and for water supplies and for purposes connected therewith. [15th June, 1945.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I

CENTRAL AND LOCAL PLANNING

Duty of Minister in relation to water

1. It shall be the duty of the Minister of Health (hereafter in this Act referred to as "the Minister"), to promote the conservation and proper use of water resources and the provision of water supplies in England and Wales and to secure the effective execution by water undertakers, under his control and direction, of a national policy relating to water. [1591]

For the first time these specific duties with respect to water are imposed upon the Minister of Health. He will be assisted by a Central Advisory Water Committee established under s. 2, *post*.

Central Advisory Water Committee

2.—(1) The Minister shall appoint a committee, to be called the Central Advisory Water Committee, for the purpose of—

(a) advising him or any other Minister concerned upon matters connected with the conservation and use of water resources ;

- (b) advising any Minister concerned with the administration of enactments which relate to or in any way affect the conservation or use of water resources or the provision of water supplies, upon any question that may be referred by him to the Committee in connection with the operation, or proposed amendment of, the said enactments ;
 - (c) considering the operation of any such enactments, and making to the Minister concerned such representations with respect to matters of general concern arising in connection with the operation of those enactments, and such recommendations for their extension or modification, as the Committee think fit. [1592]
- (2) The Minister may by order make provision with respect to the constitution and procedure of the Committee. [1593]
- (3) The Minister may pay such expenses of the Committee as he may, with the approval of the Treasury, determine. [1594]

The Central Advisory Water Committee, under the Chairmanship of Field-Marshal Lord Milne, prepared and submitted the White Paper on a National Water Policy (Cmd. 6515) on which the present Act is based. This section reconstitutes and permanently establishes the Committee.

Joint Advisory Water Committees

3.—(1) If, with respect to any area in England and Wales, the Minister is satisfied that the provision of water supplies for that area or the conservation of water resources for the purpose of such provision may be thereby more effectively secured, he may by order constitute for that area a committee, to be known as a Joint Advisory Water Committee, which shall consist of—

- (a) a chairman appointed by the Minister ;
- (b) members appointed by statutory water undertakers whose limits of supply are comprised wholly or partly in the area of the Committee or who supply water in bulk for distribution in any part of that area ;
- (c) members appointed by local authorities whose counties or districts are comprised wholly or partly in the area of the Committee, not being such statutory water undertakers as aforesaid. [1595]

(2) Any such order may make further provision as to the constitution of the Committee, the term of office of the members thereof, the method of appointment of members by the statutory water undertakers and local authorities aforesaid and as to the procedure of the Committee. [1596]

(3) Any such order may apply to a Joint Advisory Water Committee subject to any necessary modifications, any of the provisions of the Local Government Act, 1933, other than the provisions of that Act enabling land to be acquired compulsorily, and may contain such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient. [1597]

(4) The expenses of a Joint Advisory Water Committee shall be defrayed by the councils of counties and county boroughs comprised wholly or partly in the area of the Committee in such proportions as they may agree upon or, in the case of disagreement, as may be determined by the Minister. [1598]

(5) Before making any such order, the Minister shall consult the statutory water undertakers and local authorities concerned. [1599]

In the White Paper on which this Act is based (Cmd. 6515) these Committees were styled "Regional Joint Advisory Committees." Their duties are concerned with the future planning of water supply requirements for their areas (*vide s. 4, post*).

Duties of Joint Advisory Water Committees

4.—(1) An order made under the last foregoing section may prescribe the duties of Joint Advisory Water Committees and, without prejudice to the generality of the foregoing provision, those duties may include the duties of—

- (a) carrying out a survey of the existing consumption of and demand for water supplies in their area and of the water resources in or available for their area ;
- (b) preparing an estimate of the future water supply requirements of their area ;
- (c) formulating proposals for meeting the existing or future water supply requirements of their area including proposals for the joint use by two or more water undertakers of any existing or proposed new source of water supply ;
- (d) advising statutory water undertakers and local authorities represented on the Committee in the preparation and co-ordination of schemes relating to water supply ;
- (e) furnishing the Minister and the said statutory water undertakers and local authorities with such information relating to water supplies in their area or water resources in or available for their area as they may reasonably be required to furnish. [1600]

(2) Where any of the duties referred to in paragraphs (a), (b) and (c) of the last foregoing subsection have been imposed upon any Joint Advisory Water Committee, the Minister may from time to time require that Committee to submit a report thereon to him within such time as he may specify. [1601]

(3) A Joint Advisory Water Committee may require statutory water undertakers and local authorities represented on the Committee to furnish information relating to their existing or proposed waterworks, the consumption of and demand for water supplies in the area where they are supplying or are authorised to supply water, and the water resources in or available for that area :

Provided that if, upon the representation of any statutory water undertakers or local authority so required to furnish information, the Minister is satisfied that in all the circumstances compliance with the requirement is impracticable or undue expense would thereby be incurred, he may direct that the requirement need not be complied with. [1602]

(4) Any person authorised by a Joint Advisory Water Committee for the purpose shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of carrying out the functions of the Committee, and the section of this Act relating to entry of premises shall apply to any such right of entry. [1603]

Power to require local authorities and statutory water undertakers to carry out surveys and formulate proposals

5. The Minister may require any local authority or statutory water undertakers to—

- (a) carry out a survey of the existing consumption of and demand for water supplies in the area where they are supplying or are authorised to supply water and of the water resources in or available for that area ;
- (b) prepare an estimate of the future water supply requirements of that area ;

- (c) formulate proposals for meeting the existing or future water supply requirements of that area including proposals for the joint use with any other local authority or water undertakers of any existing or proposed new source of water supply ;
- (d) submit a report on any of the aforesaid matters to the Minister within such time as he may specify. [1604]

Under this section the Minister may require local authorities and statutory water undertakers to carry out duties similar to those imposed by s. 4, *ante*, on Joint Advisory Water Committees.

Power of Minister to require records and information from persons abstracting water

6.—(1) The Minister may make regulations requiring any class of persons to keep such records and furnish such returns as to the quantity and quality of water abstracted by them from any source and as to such other matters relating to the source as may be prescribed by the regulations :

Provided that—

- (a) the regulations shall not apply in a case where water is abstracted by an individual for the domestic purposes of his household only ;
- (b) in a case where the Minister is satisfied that in all the circumstances compliance with any requirement of the regulations is impracticable or undue expense would be thereby incurred, he may direct that that requirement need not be complied with. [1605]

(2) The regulations may provide for the inspection of any records kept thereunder and of any apparatus used for the purpose thereof and for the taking of copies of and extracts from any such records and may confer rights of entry for the purpose of exercising any of the powers aforesaid, and the section of this Act relating to entry of premises shall apply to any such right of entry. [1606]

(3) Any person who fails to comply with any requirement of the regulations shall be guilty of an offence against this Act. [1607]

Facilities for obtaining information as to underground water

7.—(1) Any person who proposes to sink, for the purpose of searching for or abstracting water, a well or borehole intended to reach a depth of more than fifty feet below the surface shall, before he begins to do so, give to the Committee of the Privy Council for Scientific and Industrial Research notice in writing of his intention to do so, and shall keep a journal of the progress of the work, which shall include measurements of the strata passed through and of the levels at which water is struck and subsequently rests, and shall allow any person authorised by the said Committee for the purpose, on the production of some duly authenticated document showing his authority, at all reasonable times—

- (a) to have free access to any such well or borehole ;
- (b) to inspect the well or borehole and the material excavated therefrom ;
- (c) to take specimens of such material and of water abstracted from the well or borehole ; and
- (d) to inspect and take copies of or extracts from the journal required to be kept under this subsection. [1608]

(2) The person sinking any such well or borehole shall, on completion or abandonment of the work, send a complete copy of the journal kept under the last foregoing subsection to the said Committee and shall also send to the Committee particulars of any test made, before such completion or abandonment, of the flow of water, specifying the rate of flow throughout

the test and the duration of the test and also where practicable specifying the water levels during the test and thereafter until the water has returned to its natural level. [1609]

(3) Where any such well or borehole is sunk in connection with an existing pumping station, the particulars of any test to be supplied to the said Committee shall also include the rate of pumping at the existing works during the test. [1610]

(4) Where the person sinking a well or borehole on any land is not the occupier of the land, the obligation to allow a person authorised by the said Committee to exercise the rights specified in paragraphs (a) to (d) of subsection (1) of this section shall be the obligation of the occupier as well as of the person sinking the well or borehole. [1611]

(5) Where any person contracts to sink any well or borehole on land belonging to or occupied by any other person, and the execution of the work is under the control of the contractor, the contractor and no other person shall be deemed for the purposes of this section to be the person sinking the well or borehole. [1612]

(6) The person sinking a well or borehole or (if a different person) the owner or occupier of the land on which it is sunk may give notice in writing to the said Committee requiring them to treat as confidential any copy of or extract from the journal required to be kept under subsection (1) of this section or any specimen taken under that subsection, and the Committee shall thereupon not allow that copy, extract or specimen, except in so far as it contains or affords information as to water resources and supplies, to be published or shown to any person not being an officer of the Department of Scientific and Industrial Research or of the Ministry of Health, unless the person giving the notice consents thereto :

Provided that, if at any time the Committee give notice to that person that in their opinion his consent is unreasonably withheld, then that person may, within three months after the notice is given by the Committee, appeal to the Railway and Canal Commission, but if at the expiration of that period no such appeal has been made, or if, after hearing the appeal, the Commission do not make an order restraining them from doing so, the Committee may proceed as if such consent had been given. [1613]

(7) Any person who fails to comply with any obligation imposed on him by the foregoing provisions of this section shall be guilty of an offence against this Act. [1614]

PART II

LOCAL ORGANISATION OF WATER SUPPLIES

Joint water boards

8.—(1) An order under section six of the Public Health Act, 1936, providing for the constitution, for the purpose of discharging functions relating to water supply, of a united district consisting of districts or parts of districts of local authorities, and for the constitution under that section of a joint water board for that united district, may be made without an application by any of the local authorities concerned. [1615]

(2) Any dispute between a joint water board (whether constituted under the Public Health Act, 1936, or otherwise) and the local authority for any constituent district or part of a district with respect to the furnishing of a supply of water in bulk by the board to the authority may be referred to the Minister by either of the parties to the dispute, and the board and the authority shall give effect to the determination of the Minister. [1616]

Combination of undertakers and transfer of undertakings by agreement or compulsorily

9.—(1) The Minister may, on the application of the water undertakers concerned, make an order providing for—

- (a) the joint furnishing by two or more statutory water undertakers, by agreement, of a supply of water ;
- (b) the constitution, by agreement, of a joint board or joint committee of two or more statutory water undertakers for the purpose of exercising all or any of their functions relating to the supply of water ;
- (c) in a case where none of the undertakers are a local authority, the amalgamation, by agreement, of the undertakings or parts of the undertakings of two or more statutory water undertakers ; or
- (d) the transfer, by agreement, to statutory water undertakers of the undertaking or part of the undertaking of any other water undertakers, whether statutory or not. [1617]

(2) Where it appears to the Minister to be expedient for the purpose of securing a more efficient supply of water to make provision for any of the matters for which, if the undertakers concerned agreed thereto, provision could be made under the last foregoing subsection, he may by order provide compulsorily for any of those matters. [1618]

(3) Any order made under this section may contain such incidental, consequential and supplementary provisions as the Minister thinks necessary or expedient for the purposes of the order, and in particular, but without prejudice to the generality of the foregoing provision, may provide for the transfer of property and liabilities and for the amendment or repeal of any local enactment relating to any of the undertakers. [1619]

(4) Any order under this section providing for the constitution of a joint board or joint committee may, if the council of any county in which the joint board or committee will exercise functions undertake to make annual contributions towards the expenses of the joint board or committee, provide for the inclusion of representatives of that council, so, however, that the number of representatives appointed under this subsection shall be less than one half of the total number of members of the joint board or committee. [1620]

(5) The provisions of Part I of the First Schedule to this Act shall apply to the making of applications and orders under subsection (1) of this section, and the provisions of Part II of the said Schedule shall apply to the making of orders under subsection (2) of this section, and all orders made under this section shall, in the circumstances specified in paragraph 8 or paragraph 17, as the case may be, of the said Schedule, be [subject to special parliamentary procedure]. [1621]

(6) An order shall not be made under this section for the constitution of any joint board which could be constituted under section six of the Public Health Act, 1936. [1622]

This section corresponds to part of s. 3 of the Gas and Water Works Facilities Act, 1870, but the powers of amalgamation and joint action between water undertakers which it confers, are much wider than those in the corresponding provision of the 1870 Act. The words in square brackets in sub-s. (5) were inserted in place of the original words "provisional only and not have effect until they are confirmed by Parliament" by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

Variation of limits of supply by agreement or compulsorily

10.—(1) The Minister may—

- (a) on the application of any statutory water undertakers supplying water under a local enactment, by order vary their limits of supply, but not so as to include any area which is within the limits of supply of any other statutory water undertakers supplying water under any local enactment ;

in bulk, either within or outside the limits of supply of the undertakers by whom the supply is to be given, and he is satisfied that the giving and taking of such a supply cannot be secured by agreement, he may by order require the respective undertakers to give and to take such a supply as aforesaid for such period and on such terms and conditions as may be provided in the order. [1634]

(4) For the purpose of laying any pipes or installing any apparatus connected therewith, being pipes or apparatus required for giving or taking a supply of water in pursuance of an agreement or order made under this section, statutory water undertakers may exercise, either within or outside their limits of supply, the like powers as are exercisable under Parts V and VI of the Third Schedule to this Act for the purpose of laying mains by undertakers to whose undertaking those Parts apply, but subject to the like conditions and obligations. [1635]

(5) The provisions of Part III of the First Schedule to this Act shall apply to the approval of agreements under this section; and the provisions of Part II of the First Schedule to this Act shall apply to the making of orders under subsection (3) of this section and any such order shall, in the circumstances specified in paragraph 17 of the said Schedule, be [subject to special parliamentary procedure]:

Provided that if the Minister is satisfied that by reason of an exceptional shortage of rain, or by reason of an accident or other unforeseen circumstances, a serious deficiency in the supply of water exists or is threatened in any locality, the said provisions of the First Schedule to this Act shall not apply to the approval of any agreement entered into under this section by undertakers supplying water in the locality or to the making of an order under this section with respect to any such undertakers, and the Minister may, if he considers that the interests of public health so require, direct that Parts V and VI of the Third Schedule to this Act shall, in relation to any works to be carried out for the purposes of that agreement or order, have effect subject to such modifications as he may think necessary for the avoidance of delay, but any agreement or order to which this proviso applies shall cease to have effect at the expiration of such period not exceeding two years as the Minister may direct. [1636]

This section replaces the Supply of Water in Bulk Act, 1934, which is wholly repealed (see s. 62 and Schedule V, *post*).

The words in square brackets in sub-ss. (2) and (5) were substituted for the words "provisional only and not have effect until it is confirmed by Parliament" by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

Default powers of Minister

13.—(1) If a complaint is made to the Minister that—

- (a) any local authority or any joint water board constituted under section six of the Public Health Act, 1936, or any enactment repealed by that Act, have failed to discharge the duty imposed upon them by section one hundred and eleven of the Public Health Act, 1936;
- (b) any statutory water undertakers supplying water under any local enactment have failed to give an adequate supply of water, either as respects quantity or quality, to any area which they are supplying, or have failed to give any supply which they have been lawfully required to give;
- (c) any statutory water undertakers have failed to take such steps as are reasonably practicable to obtain new powers or to extend their existing powers for the purpose of remedying any such failure as is mentioned in paragraph (a) or paragraph (b) hereof; or
- (d) any statutory water undertakers have failed to do anything which they are required to do by or under this Act;

or the Minister is of opinion that an investigation should be made as to whether any local authority, joint water board or statutory water undertakers have failed in any of the matters aforesaid, he may cause a local inquiry to be held into the matter. [1637]

(2) If after a local inquiry has been held in pursuance of the last foregoing subsection, the Minister is satisfied that there has been such a failure on the part of the local authority, joint water board or statutory water undertakers in question, he may make an order declaring them to be in default and directing them for the purpose of remedying the default to discharge such of their functions in such manner and within such time or times as may be specified in the order or, as the case may be, to take such steps within such time or times as may be specified in the order to obtain new powers or to extend their existing powers. [1638]

(3) If the body declared to be in default by an order made under the last foregoing subsection fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the functions of the body in default as he thinks fit :

Provided that, if the body in default are the council of a county district or a joint water board, the Minister may transfer the functions to the council of the county within which the functions are wholly or mainly exercisable, instead of to himself. [1639]

(4) Where functions transferred to the Minister under this section include the function of applying to the Minister for any new powers or for an extension of existing powers, the Minister may grant the new powers or the extension of existing powers as if an application had been made therefor, and shall give all such notices and do all such other things as would have been required to be given or done in connection with such an application, and any enactment relating to the application for and grant of such new powers or extension of existing powers shall have effect with the necessary adaptations and modifications. [1640]

(5) Where any functions are transferred to a county council under this section—

(a) the expenses incurred by the county council in discharging those functions shall, except in so far as they may be met by any grant made by the county council, be a debt due from the body in default to the county council, and shall be defrayed as part of the expenses of the undertaking of the body in default and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them ;

(b) the county council, for the purpose of the functions transferred to them, may on behalf of the body in default borrow money subject to the like conditions, in the like manner, and on the security of the like revenues as that body might have borrowed for the purpose of those functions ;

(c) the county council may charge the said revenues with the payment of the principal and interest of the loan, and the loan, with the interest thereon, shall be paid by the body in default in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on those revenues by that body ; and

(d) the county council shall keep separate accounts of all income and expenditure in respect of the transferred functions. [1641]

(6) Where the Minister has transferred any functions to himself under this section, any expenses incurred by him in discharging those functions shall be paid in the first instance by him, but the amount of those expenses

as certified by the Minister shall on demand be paid to him by the body in default, and shall be recoverable by him from them as a debt due to the Crown, and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them.

Where the body in default are a local authority or joint water board, the payment of any such expenses as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which the local authority or board may borrow money in accordance with the statutory provisions relating to borrowing by such an authority or board. [1642]

(7) Any order made under subsection (3) of this section may provide for the transfer to the Minister or the county council, as the case may be, of such of the property and liabilities of the body in default, as, in the opinion of the Minister, may be necessary or expedient, and when any such order is revoked the Minister may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to any property or liabilities held by him or by the county council for the purposes of the functions transferred. [1643]

(8) Section three hundred and twenty-two of the Public Health Act, 1936 (which confers default powers on the Minister), shall not apply to any default to which this section applies. [1644]

This section is intended to facilitate the exercise by the Minister of the general supervisory powers conferred by s. 1, *ante*. S. 322 of the Public Health Act, 1936, was amended by s. 4 of the Rural Water Supplies and Sewerage Act, 1944 (Vol. XXII, p. 386), which latter section is now amended by s. 62 and Schedule V, *post*, consequent upon the inclusion of the above section.

PART III

CONSERVATION AND PROTECTION OF WATER RESOURCES

Control of abstraction and prevention of waste in certain areas

14.—(1) Where the Minister is satisfied that special measures for the conservation of water in any area are necessary in the public interest, whether for the protection of public water supplies or for the protection of water supplies used for industrial or other purposes, he may make an order defining the area in question and thereupon the provisions of this section shall apply to that area. [1645]

(2) The provisions of Part II of the First Schedule to this Act, except paragraphs 17 and 18, shall apply to orders made under this section, and such orders shall be [subject to special parliamentary procedure]. [1646]

(3) Subject to the following provisions of this section, no person shall, in any area to which this section applies, begin to—

- (a) construct any well, borehole, or other work for the purpose of abstracting underground water ; or
- (b) extend any existing well, borehole, or other work for the purpose of abstracting additional quantities of underground water ;

unless he has obtained, in accordance with regulations made under this section, a licence from the Minister. [1647]

(4) The last foregoing subsection shall not apply to—

- (a) the construction or extension of any well, borehole or other work by any individual for the purpose of abstracting underground water solely and to the extent necessary for a supply of water for the domestic purposes of his household ;
- (b) the construction or extension of any well, borehole or other work, if that construction or extension is expressly authorised by any enactment ; or

(c) any experimental boring required in connection with any such construction or extension as is referred to in the foregoing paragraphs of this subsection. [1648]

(5) No person shall in any area to which this section applies abstract underground water from—

- (a) any well, borehole or other work constructed or extended in contravention of subsection (3) of this section ;
- (b) any well, borehole or other work the construction or extension of which was made lawful by paragraph (a) or paragraph (c) of the last foregoing subsection, except for the purpose for which it was constructed or extended ; or
- (c) any boring or other work constructed or extended while the order is in force for any purpose other than the abstraction of underground water ;

unless he has obtained, in accordance with regulations made under this section, a licence from the Minister. [1649]

(6) The Minister may, on the application of any person, grant a licence for the purposes of subsection (3) or subsection (5) of this section, with or without conditions, or may refuse to grant such a licence, but before he refuses to grant such a licence or attaches any condition thereto, he shall, if requested to do so by the applicant, grant him an opportunity to appear before and be heard by a person appointed for the purpose by the Minister. [1650]

(7) Before any person begins to construct in any area to which this section applies any new boring for the purpose of searching for or extracting minerals, he shall give notice of his intention in the prescribed form to the Minister, and shall take such measures as may be required by the Minister for conserving water, being measures which in the opinion of the Minister will not interfere with the winning of minerals :

Provided that, before imposing any requirement under this subsection, the Minister shall, if requested to do so by any person interested in the work, grant him an opportunity to appear before and be heard by a person appointed for the purpose by the Minister. [1651]

(8) Any person who contravenes any of the foregoing provisions of this section or any requirement imposed thereunder or any condition attached to a licence granted for the purposes of subsection (3) or subsection (5) of this section shall be guilty of an offence against this Act. [1652]

(9) No person shall in any area to which this section applies—

- (a) cause or allow any underground water to run to waste from any well, borehole or other work except for the purpose of testing the extent or quality of the supply or cleaning, sterilising, examining or repairing the well, borehole or other work ; or
- (b) abstract from any well, borehole, or other work water in excess of his reasonable requirements :

Provided that, where underground water interferes or threatens to interfere with the execution or operation of any underground works (whether waterworks or not), it shall not be an offence under this subsection to cause or allow the water to run to waste so far as may be necessary to enable the works to be executed or operated, if no other method of disposing of the water is reasonably practicable. [1653]

(10) A person who contravenes any provision of the last foregoing subsection shall, in respect of each offence, be liable on summary conviction to a fine not exceeding ten pounds and the court may, on the conviction of any person, order that the well, borehole or other work shall be effectively sealed

or may make such other order as appears to the court to be necessary to prevent waste of water.

If any person fails to comply with any such order of the court, the court may (without prejudice to the imposition of any penalty for contempt of court), on the application of any local authority within whose county or district the well, borehole or other work is situated, or of any statutory water undertakers affected or likely to be affected by the waste, authorise the authority or undertakers to take such steps as may be necessary to execute the order, and any expenses incurred in taking any such steps shall be recoverable as a civil debt from the person convicted. [1654]

(11) The Minister may make regulations with respect to the procedure for making applications to him for the grant of a licence under this section, and in particular with respect to the giving of notices of any such application and the making of objections thereto. [1655]

(12) Any officer of a local authority whose county or district is comprised wholly or partly in an area to which this section applies, and any officer of any statutory water undertakers likely to be affected by any failure to enforce the provisions of this section in any such area, being an officer authorised for the purpose by the local authority or undertakers concerned, shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours—

(a) to enter any premises in the area for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of this section; or

(b) to enter any premises in which the authority or undertakers have been authorised to execute an order of the court made under subsection (10) of this section, for the purpose of executing that order;

and the section of this Act relating to entry of premises shall apply to any such right of entry. [1656]

The words in square brackets in sub-s. (2) were substituted for the words "provisional only and shall not have effect until they are confirmed by Parliament" by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

Agreements as to drainage, etc., of land

15.—(1) Statutory water undertakers may enter into agreements with the owners and occupiers of any land, or with a local authority, with respect to the execution and maintenance by any part to the agreement of such works as the undertakers consider necessary for the purpose of draining that land, or for more effectually collecting, conveying, or preserving the purity of, water which the undertakers are for the time being authorised to take:

Provided that, where the execution of any such works would result in the discharge of water, otherwise than through public sewers, into any watercourse which is within a catchment area or fishery district or is subject to the jurisdiction of a navigation authority or rivers board, the undertakers shall before entering into the agreement consult with the catchment board, fishery board, navigation authority or rivers board concerned. [1657]

(2) An agreement under this section with an owner of land may be registered under section ten of the Land Charges Act, 1925, as an obligation affecting land falling within Class D, and shall, unless it is void by reason of a failure so to register it, be binding upon and enforceable against his successors in title to that land:

Provided that this subsection shall only apply to such an agreement if it is expressed to be binding and enforceable as aforesaid. [1658]

(3) An agreement under this section with a local authority may extend to the execution and maintenance by that authority of works of sewerage and sewage disposal. [1659]

Power to prohibit or restrict temporarily use of hosepipes

16.—(1) If any statutory water undertakers are of opinion that a serious deficiency of water available for distribution by them exists, or is threatened, they may, for such period as they think necessary, prohibit or restrict as respects the whole or any part of their limits of supply the use, for the purpose of watering private gardens or washing private motor cars, of any water supplied by them and drawn through a hosepipe or similar apparatus.

In this subsection the expression "private motor car" means a mechanically propelled vehicle intended or adapted for use on roads, other than a public service vehicle within the meaning of Part IV of the Road Traffic Act, 1930, or a goods vehicle within the meaning of Part I of the Road and Rail Traffic Act, 1933, and includes any vehicle drawn by a private motor car. [1660]

(2) The undertakers shall, before the prohibition or restriction comes into force, give public notice in two or more newspapers circulating within the area affected of the prohibition or restriction and of the date when it will come into force. [1661]

(3) Any person who, while the prohibition or restriction is in force, contravenes its provisions shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds. [1662]

(4) Where a prohibition or restriction is imposed under this section, charges made by the undertakers for the use of a hosepipe or similar apparatus shall be subject to a reasonable reduction to be settled in case of dispute by a court of summary jurisdiction and in the case of a charge paid in advance any necessary repayment or adjustment shall be made by the undertakers.

The procedure for obtaining the settlement of a dispute under this subsection by a court of summary jurisdiction shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings. [1663]

Byelaws for preventing waste, misuse or contamination of water

17.—(1) Statutory water undertakers may make byelaws for preventing waste, undue consumption, misuse, or contamination of water supplied by them. [1664]

(2) Byelaws under this section may include provisions—

- (a) prescribing the size, nature, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair, of the water fittings to be used; and
- (b) forbidding the use of any water fittings which are of such a nature or are so arranged or connected as to cause or permit, or be likely to cause or permit, waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation in pipes. [1665]

(3) If a person contravenes the provisions of any byelaws made under this section, the undertakers may, without prejudice to their right to take proceedings for a fine in respect of such contravention, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be altered, repaired or replaced, and may recover the expenses reasonably incurred by them in so doing from the person in default summarily as a civil debt. [1666]

(4) Nothing in this section, or in any byelaw made thereunder, shall apply to any fittings used on premises which belong to a railway company and are held or used by them for the purposes of their railway, so long as those fittings are not of such a nature or so arranged or connected as to cause or permit or be likely to cause or permit waste, undue consumption, misuse,

erroneous measurement or contamination of water supplied by the undertakers, or reverberation in pipes :

Provided that the exemption conferred by this subsection shall not extend to fittings used in hotels or dwelling houses or in offices not forming part of a railway station. [1667]

This section corresponds to sub-ss. (1), (2), (3) and (4) of s. 132 of the Public Health Act, 1936. For provisions corresponding to sub-s. (5) (relaxing of byelaws), and sub-s. (6) (duration of byelaws), see respectively sub-ss. (4) and (6) of s. 19, *post*, and for provisions corresponding to sub-s. (7) (confirmation of byelaws) see sub-s. (1) of s. 19 and Schedule I, Part IV, *post*.

Byelaws for preventing pollution of water of undertakers

18.—(1) If it appears to statutory water undertakers to be necessary for the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to them or which they are for the time being authorised to take, they may by byelaws—

- (a) define the area within which they deem it necessary to exercise control ; and
- (b) prohibit or regulate the doing within that area of any act specified in the byelaws.

Byelaws made under this section may contain different provisions for different parts of the area defined by the byelaws. [1668]

(2) Where an area has been defined by byelaws under this section, the undertakers may by notice require either the owner or the occupier of any premises within that area to execute and keep in good repair such works as they consider necessary for preventing pollution of their water and, if he fails to comply with any such requirement, he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws :

Provided that an owner or occupier who considers that a requirement made on him under this subsection is unreasonable may, within twenty-eight days after service on him of the requirement, appeal to the Minister and the Minister may determine the appeal himself or, if he thinks fit, may refer it for determination by an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers, and the Minister or arbitrator may, if he decides that the requirement is unreasonable, modify or disallow the requirement. [1669]

(3) The undertakers shall pay compensation to the owners and occupiers of, and other persons interested in, any premises within the area defined by byelaws made under this section in respect of—

- (a) any curtailment or injurious affection of their legal rights by restrictions imposed by the byelaws ; and
- (b) any expenses incurred by them in complying with a requirement to construct and maintain any works the construction of which could not, apart from this section, lawfully have been required, otherwise than upon payment of compensation, by the local authority of the district or county ;

and any question as to the amount of compensation to be paid shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister.

In this subsection the expression “ legal rights ” includes a user of land in respect of which the local authority might have taken proceedings under the Acts relating to public health or under their byelaws, but have refrained from doing so, either by reason of the character or situation of the land or for some other reason. [1670]

(4) Where any person has failed to comply with a requirement made on him under subsection (2) of this section and either—

- (a) he has not appealed to the Minister against that requirement and the time for appealing has expired ; or
- (b) his appeal has been dismissed or the requirement has been modified on his appeal and he has failed to comply with the requirement as so modified :

the undertakers may, without prejudice to their right to take proceedings for a fine in respect of such failure, execute and keep in good repair the works specified in the requirement as originally made or, as the case may be, as modified on appeal, and may recover the expenses reasonably incurred by them in so doing from the person in default summarily as a civil debt, except expenses incurred in respect of works the construction of which could not, apart from this section, lawfully have been required, otherwise than upon payment of compensation, by the local authority of the district or county. [1671]

(5) Two or more statutory water undertakers may combine for the purpose of making and enforcing byelaws under this section, and this section and subsection (2) of the next but one following section of this Act shall in any such case have effect as if the references to statutory water undertakers were construed as references to those two or more statutory water undertakers acting jointly. [1672]

(6) Nothing in this section shall be construed as empowering the undertakers to make any byelaw restricting the rights of a navigation authority under any enactment. [1673]

This section corresponds to s. 61 of the Waterworks Clauses Act, 1847. Though the two sections have a common aim, namely, to prevent the pollution of water of water undertakers, the respective provisions are very different, since the section in the 1847 Act simply makes pollution an offence and provides consequent penalties.

General provisions as to byelaws

19.—(1) The Minister shall be the confirming authority as respects byelaws made under either of the last two foregoing sections, and the provisions of Part IV of the First Schedule to this Act shall apply to the making and confirming of such byelaws. [1674]

(2) It shall be the duty of any undertakers by whom any such byelaws are made to enforce those byelaws. [1675]

(3) Any such byelaws may contain provisions for imposing on any person contravening the byelaws a fine, recoverable on summary conviction, not exceeding the sum of twenty pounds in respect of each offence and, in the case of a continuing offence, a further fine not exceeding five pounds for each day during which the offence continues after conviction therefor. [1676]

(4) Where any statutory water undertakers consider that the operation of any such byelaw made by them would be unreasonable in relation to any particular case, they may with the consent of the Minister relax the requirements of the byelaw or dispense with compliance therewith :

Provided that the undertakers shall give notice of any such proposed relaxation or dispensation in such manner and to such person, if any, as the Minister may direct, and the Minister shall not give his consent before the expiration of one month from the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him. [1677]

(5) Where any such byelaws are made by statutory water undertakers, any officer of the undertakers authorised by them for the purpose, shall,

on producing if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises in the area to which the byelaws apply, for the purpose of—

- (a) ascertaining whether there is or has been any contravention of the byelaws ;
- (b) in the case of byelaws made under section seventeen of this Act, exercising any right conferred on the undertakers by subsection (3) of that section ; or
- (c) in the case of byelaws made under the last foregoing section—
 - (i) ascertaining whether or not circumstances exist which would justify the undertakers making a requirement under subsection (2) of that section ; and
 - (ii) exercising any right conferred on the undertakers by subsection (4) of that section to execute and maintain works ;

and the section of this Act relating to entry of premises shall apply to any such right of entry. [1678]

(6) Subject as hereinafter provided—

- (a) any byelaw made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of ten years beginning with the date on which it was made ; and
- (b) any byelaw or regulation made by statutory water undertakers under any other enactment which confers power to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of five years beginning with the commencement of this Act :

Provided that the Minister may by order extend the period during which any byelaw or regulation to which this subsection applies is to remain in force. [1679]

(7) Sections two hundred and fifty to two hundred and fifty-two of the Local Government Act, 1933 (which relate to the procedure for making byelaws and the penalties to be imposed thereunder) shall not apply to byelaws made under either of the last two foregoing sections. [1680]

Power of Minister to require the making of byelaws, to make byelaws in case of default and to revoke byelaws

20.—(1) The Minister may by notice require any statutory water undertakers to make byelaws under section seventeen or section eighteen of this Act in relation to such matters as he may specify and, in the case of byelaws made under section eighteen, he shall specify the area for which the byelaws are to be made, and if the undertakers do not within three months after such requirement make in relation to the matters specified byelaws satisfactory to him, the Minister may himself make byelaws with respect to those matters. [1681]

(2) If the Minister considers that any byelaws made by statutory water undertakers under the said section seventeen or the said section eighteen or any byelaws or regulations made by statutory water undertakers under any other enactment which confers powers to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the said sections are unsatisfactory, he may by notice require the undertakers to revoke those byelaws or regulations and to make such new byelaws under the said section seventeen or the said section eighteen as he considers necessary, and, if the undertakers do not within three months after such requirement comply therewith, the Minister may himself revoke the

byelaws or regulations, and make such new byelaws under the said section seventeen or the said section eighteen as he considers necessary. [1682]

(3) Any byelaws made by the Minister under this section shall have effect as if they had been made by the undertakers concerned and confirmed by the Minister. [1683]

Penalty for polluting water used for human consumption

21.—(1) If any person is guilty of any act or neglect whereby any spring, well or adit, the water from which is used or likely to be used for human consumption or domestic purposes, or for manufacturing food or drink for human consumption, is polluted or likely to be polluted, he shall be guilty of an offence against this Act :

Provided that nothing in this section shall be construed as prohibiting or restricting—

- (a) any method of cultivation of land which is in accordance with the principles of good husbandry ; or
- (b) the reasonable use of oil or tar on any highway maintainable at the public expense, so long as the highway authority take all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such spring, well or adit. [1684]

(2) Any officer of a local authority or statutory water undertakers within whose district or limits of supply, as the case may be, any such spring, well or adit is situated authorised by the authority or undertakers for the purpose, shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of ascertaining whether there is or has been any contravention of this section in relation to that spring, well or adit, and the section of this Act relating to entry of premises shall apply to any such right of entry. [1685]

Acquisition of land and execution of works for protection of water

22.—(1) For the purpose of any provision of this Act conferring power on statutory water undertakers to acquire land for the purposes of their undertaking, there shall be deemed to be included among those purposes the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to the undertakers or which they are for the time being authorised to take. [1686]

(2) Statutory water undertakers may on any land belonging to them, or over or in which they have acquired the necessary easements or rights, construct and maintain drains, sewers, watercourses, catchpits and other works for intercepting, treating or disposing of any foul water arising or flowing upon that land, or for otherwise preventing water which belongs to the undertakers or which they are for the time being authorised to take from being polluted :

Provided that—

- (a) before constructing any such works, the undertakers shall, if the proposed works will affect any watercourse in a catchment area or fishery district or which is subject to the jurisdiction of a navigation authority or rivers board, consult with the catchment board, fishery board, navigation authority or rivers board concerned ;
- (b) nothing in this subsection shall authorise the undertakers to intercept or take any water which a navigation authority are authorised to take or use for the purposes of their undertaking, without the consent of that navigation authority. [1687]

(3) Any statutory water undertakers proposing to construct any drain, sewer or watercourse for the purposes mentioned in the last foregoing subsection may, with the consent of the highway authority concerned, which may be given subject to such conditions as the authority think fit, carry the drain, sewer or watercourse under, across or along any street, whether within or outside their limits of supply, and such statutory provisions with respect to the breaking open of streets as are applicable to the undertakers shall with any necessary modifications and adaptations, apply accordingly. [1688]

(4) A consent required for the purposes of either of the two last foregoing subsections shall not be unreasonably withheld nor shall any unreasonable condition be attached to such a consent, and any question whether or not such a consent is unreasonably withheld or whether any condition which an authority seek to impose is unreasonable, shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister. [1689]

PART IV

POWERS AND DUTIES OF LOCAL AUTHORITIES AND WATER UNDERTAKERS

Construction of works and acquisition of land and water rights

Orders of Minister conferring certain powers on water undertakers

23.—(1) The Minister may, on the application of any persons who are or propose to become statutory water undertakers, make an order—

- (a) authorising them to construct, acquire by agreement, alter or continue, and to maintain, waterworks and works connected therewith ;
- (b) if the applicants are not statutory undertakers, authorising them to supply water in any area ;
- (c) authorising the applicants to raise capital or borrow money for any purposes of the water undertaking ;

and the order may contain such incidental, consequential and supplementary provisions, including provisions for the amendment or repeal of any local enactment, as the Minister thinks necessary or expedient :

Provided that—

- (i) an order made under paragraph (a) of this subsection shall not empower the applicants to acquire compulsorily any land or water rights or vary compulsorily the quantity of compensation water required by any enactment to be discharged into any watercourse or the periods during which or the manner in which such compensation water is required to be discharged ;
- (ii) no order shall be made under paragraph (b) of this subsection without the consent of the local authority for every district within which the applicants are to be authorised to supply water or, in a case where they are to be authorised to supply water within the limits of supply of any statutory water undertakers supplying water under a local enactment, without the consent of those undertakers.

A consent required for the purposes of this subsection shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to the Minister. [1690]

(2) The provisions of Part I of the First Schedule to this Act, other than paragraph 8, shall apply to the making of applications and orders under this section. [1691]

This section replaces s. 3 of the Gas and Water Works Facilities Act, 1870, so far as it relates to water.

Power of statutory water undertakers to acquire land by agreement or compulsorily

24.—(1) Any statutory water undertakers shall have power under this section to acquire land by agreement, whether by way of purchase, lease or exchange, for any of the purposes of their undertaking, but no such agreement shall have effect without the approval of the Minister. [1692]

(2) Without prejudice to the generality of the foregoing subsection, statutory water undertakers may acquire land thereunder for the purpose of erecting houses and other buildings thereon for the use of persons employed by them for the purposes of their undertaking, and may also acquire land thereunder to be used for recreation grounds for persons so employed. [1693]

(3) The Lands Clauses Acts, except the provisions relating to the acquisition of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections ninety-nine to one hundred and seven and sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845, are hereby incorporated with the foregoing provisions of this section, and in construing those Acts those provisions shall be deemed to be the special Act and the word "land" shall have the meaning assigned to it in this Act. [1694]

(4) Any local authority or statutory water undertakers may be authorised by means of a compulsory purchase order made by them and confirmed by the Minister to purchase land compulsorily under this section for any of the purposes of their water undertaking or proposed water undertaking, but those purposes shall not be deemed to include the purposes mentioned in subsection (2) of this section. [1695]

(5) The provisions of the Second Schedule to this Act shall have effect with respect to compulsory purchase orders made under this section. [1696]

(6) Nothing in this section shall authorise the compulsory acquisition of land which is the site of an ancient monument or other object of archaeological interest, or any land which is the property of a local authority or has been acquired for the purposes of their undertaking by any persons authorised by any enactment to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking. [1697]

(7) A compulsory purchase order made under this section may authorise the purchase of any land belonging to the National Trust notwithstanding that such land is held by the Trust inalienably, but where any such order authorises the acquisition of land so held inalienably or of any land forming part of a common, open space or allotment, the order shall, subject to the next following subsection, be [subject to special parliamentary procedure]. [1698]

(8) So much of the last foregoing subsection as provides that any such order as aforesaid shall be provisional only and not have effect until it is confirmed by Parliament shall not apply where the order provides for giving in exchange for such land other land, not being less in area, certified by the Minister of Agriculture and Fisheries (in the case of a common or an allotment) or the Minister of Town and Country Planning (in the case of land held inalienably by the National Trust or an open space not being a common or an allotment) to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public :

Provided that—

- (a) before giving any such certificate, the Minister of Agriculture and Fisheries or the Minister of Town and Country Planning, as the case may be, shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if he thinks it necessary, hold a local inquiry ; and

- (b) the order shall provide for vesting the land given in exchange in the persons in whom the land acquired was vested, subject to the same rights, trusts and incidents as attach to the land acquired, and for discharging the land acquired from all rights, trusts and incidents to which it was previously subject. [1699]

(9) In this section the expression "National Trust" means the National Trust for places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, the expression "held inalienably," in relation to land belonging to that Trust, means land which is inalienable under section twenty-one of the said Act or section eight of the National Trust Act, 1939, the expression "allotment" means an allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act, the expression "common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green, and the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation and any disused burial ground. [1700]

The words in square brackets in sub-s. (7) were substituted for the words "provisional only and not have effect until it is confirmed by Parliament" by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

Power of statutory water undertakers to hold and dispose of land

25. Notwithstanding anything in the Lands Clauses Acts, any statutory water undertakers may hold and use for the purposes of their undertaking for such time as they think fit any land for the time being belonging to them, and may from time to time, with the consent of the Minister, sell, lease, exchange or otherwise dispose of any such land in such manner, for such consideration and on such terms and conditions as they think fit and, in particular, on any such disposition may reserve to themselves any water rights or other easements in, over or belonging to, the land disposed of and may make any such disposition subject to such other reservations, conditions, restrictions and provisions with respect to the use of water, the carrying on of noxious trades or the discharge or deposit of manure, sewage or other foul matter as they think fit:

Provided that the consent of the Minister shall not be required for the grant of a lease of any such land for a term not exceeding seven years. [1701]

Power of statutory water undertakers to acquire water rights

26.—(1) Statutory water undertakers may acquire by agreement rights to take water from any stream or other source, but no agreement shall have effect without the approval of the Minister. [1702]

(2) The Minister may on the application of any local authority or statutory water undertakers, by order provide for the compulsory acquisition by them of such rights to take water from any stream or other source as may be specified in the order. [1703]

(3) Where the acquisition of rights under this section will result in the impounding of any stream—

- (a) the Minister shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement requires the undertakers to provide adequate quantity of compensation water, and incorporates the appropriate provisions of Part III of the Third Schedule to this Act subject to such modifications and adaptations as the Minister may approve; or

- (b) the Minister shall in any order for the compulsory acquisition of such rights prescribe the quantity of compensation water to be provided by the undertakers and shall incorporate in the order the appropriate provisions of the said Part III subject to such modifications and adaptations as he thinks fit. [1704]

(4) Where the acquisition of rights under this section will in the opinion of the Minister substantially reduce the flow of any stream—

- (a) the Minister shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement contains adequate provisions for limiting the extent to which and the circumstances in which water may be taken from the stream and incorporates the appropriate provisions of Part III of the Third Schedule to this Act subject to such modifications and adaptations as the Minister may approve ;
- (b) the Minister shall in any order for the compulsory acquisition of such rights prescribe the extent to which and the circumstances in which water may be taken and shall incorporate in the order the appropriate provisions of the said Part III subject to such modifications and adaptations as he thinks fit. [1705]

(5) In assessing the quantity of compensation water to be provided under any such agreement or order or in determining the extent to which and the circumstances in which water may be taken under any such agreement or order, the Minister shall have regard to all the circumstances of the particular case, including—

- (a) the character and flow of the stream ;
- (b) the extent to which the stream is or may in the future be used for industrial purposes, fisheries, water supply by other undertakers, agriculture, transport or navigation ;
- (c) the effect on land drainage or on any canal or inland navigation of any alterations in the flow of the stream,

and shall secure, as far as practicable, that the flow of the stream does not fall below the minimum quantity necessary to secure the interests of public health and the protection of the rights of riparian and other landowners. [1706]

(6) The provisions of Part III of the First Schedule to this Act shall apply to the approval of agreements under this section and, if any catchment board for a catchment area or fishery board of a fishery district in which any source from which water is to be taken is situated, or any navigation authority for any river, canal or other inland navigation from which water is to be taken or which is fed by a stream from which water is to be taken to such extent as, in the opinion of the Minister, to affect the river, canal or other inland navigation duly object to the agreement in accordance with the provisions of the said Part III, and the objection is not withdrawn, the Minister shall give his approval by order and the order shall, in the circumstances specified in paragraph 23 of the said Schedule be [subject to special parliamentary procedure]. [1707]

(7) The provisions of Part I of the First Schedule to this Act shall apply to the making of applications and orders under subsection (2) of this section, and any such order shall, in the circumstances specified in paragraph 8 of the said Schedule, be [subject to special parliamentary procedure]. [1708]

The words in square brackets in sub-ss. (6) and (7) were substituted in each case for the words "provisional only and not have effect until it is confirmed by Parliament" by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

Duty to supply water for non-domestic purposes

Supply of water for non-domestic purposes

27.—(1) Subject as hereinafter provided, statutory water undertakers supplying water otherwise than in bulk shall give a supply of water on reasonable terms and conditions for purposes other than domestic purposes

to the owner or occupier of any premises within their limits of supply who requests them to give such a supply to those premises :

Provided that they shall not be required to give such a supply if their ability to meet existing obligations to supply water for any purposes or probable future requirements to supply water for domestic purposes, without having to incur unreasonable expenditure in constructing new waterworks for the purpose, would be endangered thereby. [1709]

(2) Any question arising under this section as to the terms and conditions on which water is to be supplied thereunder and any question whether the undertakers are justified in refusing to give a supply, shall in default of agreement, be referred to the Minister, and the Minister may determine it himself, or if he thinks fit, refer it for determination by an arbitrator appointed by him. [1710]

(3) Where any statutory water undertakers are required to give a supply of water under this section, the powers of those undertakers and of persons supplied or proposed to be supplied by them to lay mains and pipes for providing a supply of water for domestic purposes and to break up streets for that purpose shall apply for the purpose of the provision of a supply under this section. [1711]

(4) Where the terms and conditions on which a supply of water is to be provided to any person under this section have been agreed or determined, and that person has done everything which he is required by such agreement or determination to do before the supply is provided, the undertakers shall, if they fail to furnish the supply within such period as may be agreed or determined, or fail to maintain the supply in accordance with the said terms and conditions, be liable (without prejudice to any civil liability) to the like penalties in the like circumstances as in the case of a failure to furnish or maintain a supply of water which they are required to provide for domestic purposes. [1712]

(5) Section thirty-eight of this Act (which relates to liability for and recovery of water rates) shall apply in relation to charges for water supply under this section, whether by meter or otherwise, in like manner as it applies in relation to water rates. [1713]

(6) In this section the expression "domestic purposes" has the same meaning as it has for the purposes of the enactments relating to the undertakers. [1714]

Extension of powers and duties of local authorities under the Public Health Act, 1936

Extension of duty to provide water supply for houses and schools

28. The duty imposed on local authorities by section three of the Rural Water Supplies and Sewerage Act, 1944, to supply water in pipes to rural localities in which there are houses or schools shall extend to all localities to which section one hundred and eleven of the Public Health Act, 1936, applies in which there are houses or schools and in which such a supply is not already available, and accordingly the said section three shall cease to have effect and for the said section one hundred and eleven there shall be substituted the following section :—

"Duty of local authority with respect to water supplies within their district"

111.—(1) It shall be the duty of every local authority—

(a) to take from time to time such steps as may be necessary for ascertaining the sufficiency and wholesomeness of water supplies within their district ;

- (b) to provide a supply of wholesome water in pipes to every part of their district in which there are houses or schools, and to take the pipes affording that supply to such point or points as will enable the houses or schools to be connected thereto at a reasonable cost, so, however, that this paragraph shall not require a local authority to do anything which is not practicable at a reasonable cost or to provide such a supply to any part of their district where such a supply is already available at such point or points as aforesaid ;
- (c) to provide a supply of wholesome water otherwise than in pipes to every part of their district in which there are houses or schools and to which it is not practicable to provide a supply in pipes at a reasonable cost, and in which danger to health arises from the insufficiency or unwholesomeness of the existing supply and a public supply is required and can be provided at a reasonable cost, and to secure that such supply is available within a reasonable distance of every house and school in that part of their district.

(2) If any question arises under paragraph (b) of the preceding subsection as to whether anything is or is not practicable at a reasonable cost or as to the point or points to which pipes must be taken in order to enable houses or schools to be connected to them at a reasonable cost, or under paragraph (c) thereof as to whether a public supply can be provided at a reasonable cost, the Minister, if requested so to do by the council of the county or by ten or more local government electors in the district of the local authority, shall, after consulting the local authority, and where the request was made by local government electors and the local authority is the council of a county district, after consulting also the council of the county, determine that question, and the local authority shall give effect to his determination.

(3) Without prejudice to their obligations under subsection (1) of this section, every local authority shall, for the purpose of securing so far as is reasonably practicable that every house has available a sufficient supply of wholesome water for domestic purposes, exercise their powers under this Part of this Act as amended by any subsequent enactment of requiring owners of houses to provide a supply of water thereto."

The obligations of joint water boards constituted before the passing of this Act under section six of the Public Health Act, 1936, or any enactment repealed by that Act shall include the obligations imposed on local authorities by this section, and the enactments relating to any such board shall have effect accordingly. [1715]

Amendment of s. 137 of the Public Health Act, 1936

29.—(1) For subsection (1) of section one hundred and thirty-seven of the Public Health Act, 1936 (which requires new houses to be provided with a sufficient water supply) there shall be substituted the following subsection :—

"(1) Where plans of a house are, in accordance with building bye-laws, deposited with a local authority, the authority shall reject the plans unless there is put before them a proposal which appears to them to be satisfactory for providing the occupants of the house with a supply of wholesome water sufficient for their domestic purposes—

- (a) by connecting the house to a supply of water in pipes provided by the local authority or other statutory water undertakers ; or

- (b) if in all the circumstances it is not reasonable to require the house to be connected as aforesaid, by otherwise taking water into the house by means of a pipe ; or
- (c) if in all the circumstances neither of the preceding alternatives can reasonably be required, by providing a supply of water within a reasonable distance of the house ;

and the authority are satisfied that the proposal can and will be carried into effect.

Any question arising under this subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the local authority ought to pass the plans may on the application of that person be determined by a court of summary jurisdiction."

[1716]

(2) In subsection (2) of the said section one hundred and thirty-seven for the words " for the domestic purposes of the inmates being provided in, or within a reasonable distance of, the house " there shall be substituted the words " for the domestic purposes of the occupants." [1717]

Amendment of s. 138 of the Public Health Act, 1936

30.—(1) For subsection (1) of section one hundred and thirty-eight of the Public Health Act, 1936 (which empowers a local authority to require an occupied house to be provided with a sufficient water supply) there shall be substituted the following subsections :—

"(1) Where a local authority are satisfied that any occupied house has not a supply of wholesome water in pipes in the house sufficient for the domestic purposes of the occupants, the local authority may—

- (a) if they are satisfied that in all the circumstances it is reasonable to require the owner of the house to connect it to a supply of water in pipes provided by the local authority or other statutory water undertakers, give notice to the owner requiring him within a time specified therein to connect the house as aforesaid ;
- (b) if they are not satisfied that it is reasonable in all the circumstances to require the owner to connect the house as aforesaid, but are satisfied that it is reasonable to require him otherwise to take water into the house by means of a pipe, give notice to the owner requiring him within a time specified therein so to take water into the house.

(1A) Where a local authority are satisfied that any occupied house has not within a reasonable distance thereof a supply of wholesome water sufficient for the domestic purposes of the occupants and that in all the circumstances it is not reasonable to require the owner to connect the house, or to take water into the house, as aforesaid, the local authority may give notice to the owner requiring him within a time specified therein to provide a sufficient supply of wholesome water within a reasonable distance of the house." [1718]

(2) In subsection (2) of the said section, for the words " the preceding subsection " there shall be substituted the words " either of the preceding subsections ". [1719]

(3) After the said subsection (2) there shall be inserted the following subsection :—

"(2A) If a person on whom a notice has been served under the preceding provisions of this section objects to the requirement of the local authority, he may, within twenty-eight days after service on him of the notice, appeal to a court of summary jurisdiction and, upon any such appeal, the court may either disallow the requirement of the local authority or allow it with or without modifications." [1720]

(4) In subsection (3) of the said section, for the words "Subject to the provisions of the next succeeding section with respect to appeals, if such a notice as aforesaid is not complied with" there shall be substituted the words "If any requirement contained in a notice given under the preceding provisions of this section, including a requirement modified by the court under the last preceding subsection, is not complied with within the time specified in the notice or, if the court extends that time, within the time as so extended." [1721]

S. 138 of the Public Health Act, 1936, as above amended, replaces s. 130 of the same Act, which is now repealed by s. 62 and Schedule V, *post*.

Other amendments of Public Health Act, 1936

31. The provisions of the Public Health Act, 1936, mentioned in the Fourth Schedule to this Act, being provisions relating to water supply and matters connected therewith, shall be amended and repealed to the extent specified in the said Schedule. [1722]

Modernisation of Waterworks Code

Incorporation and application by order of provisions of Third Schedule

32.—(1) The Minister may by any order made under section nine, section ten, section twelve, section twenty-three or section forty of this Act apply to any water undertaking to which the order relates such of the provisions contained in the Third Schedule to this Act as appear to him to be appropriate, subject to such modifications and adaptations as may be specified in the order. [1723]

(2) The Minister may at any time by order apply the provisions of the Third Schedule to this Act or any of them to the undertaking of any statutory water undertakers supplying water under a local enactment, subject to such modifications and adaptations as may be specified in the order, and may by the order repeal any provision previously applicable to the undertaking to the extent to which it appears to him, having regard to the provisions of this Act which apply, or are applied by the order, to the undertaking, to be no longer required, or amend any provision previously applicable to the undertaking to any extent which appears to him necessary to bring it into conformity with the said provisions of this Act :

Provided that, during the period of five years beginning with the commencement of this Act, he shall not make such an order except on the application of the undertakers concerned. [1724]

(3) The provisions of Part I of the First Schedule to this Act shall apply to orders made under the last foregoing subsection on the application of the undertakers concerned, and the provisions of Part II of the said Schedule shall apply to orders made thereunder without any such application, and all orders made under the said subsection shall, in the circumstances specified in paragraph 8 or paragraph 17, as the case may be, of the said Schedule, be [subject to special parliamentary procedure]. [1725]

(4) The Minister, when considering the making of an order under subsection (2) of this section, shall have regard to the powers, if any, and practice of the undertakers as regards additional charges in respect of waterclosets and baths, and the probable effect of any order made by him on the financial position of the undertaking and on the rates and charges payable by consumers of different classes. [1726]

(5) Where the Minister makes an order under subsection (2) of this section, he shall, if so requested by the undertakers concerned before the order is made, postpone the operation of the order for such period as he deems sufficient to enable them to make an application to him under section

forty of this Act (which relates to the power of the Minister to revise water rates and charges). [1727]

The words in square brackets in sub-s. (3) were substituted for the words "provisional only and not have effect until they are confirmed by Parliament" by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

Repeal and amendment of local enactments

33.—(1) The Minister may, on the application of any statutory water undertakers, by order repeal or amend any local enactment relating to the supply of water by those undertakers :

Provided that—

- (a) an order under this section shall not vary the quantity of compensation water required by any local enactment to be discharged into any watercourse or the period during which or the manner in which such compensation water is required to be discharged ;
- (b) the Minister shall not make an order under this section with respect to any matter which in his opinion could be more appropriately dealt with under any other provision of this Act. [1728]

(2) The provisions of Part I of the First Schedule to this Act shall apply to orders made under this section and such orders shall, in the circumstances specified in paragraph 8 of the said Schedule, be [subject to special parliamentary procedure]. [1729]

(3) Section three hundred and three of the Public Health Act, 1875, (which empowers the Minister by provisional order to repeal or alter local Acts relating to the same subject matters as the said Act) shall cease to have effect so far as it applies to any local enactment relating to water supply. [1730]

This section replaces s. 303 of the Public Health Act, 1875, so far as it applies to local enactments relating to water supply (*vide* sub-s. (3)).

The words in square brackets in sub-s. (2) were substituted for the words "provisional only and not have effect until they are confirmed by Parliament" by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

Miscellaneous

Temporary discharge of water into watercourses

34.—(1) Subject to the provisions of this section, statutory water undertakers who are carrying out, or are about to carry out, the construction, alteration, repair, cleaning, or examination of any reservoir, well or borehole, line or pipes or other work forming part of their undertaking may cause the water therein to be discharged into any available watercourse and for that purpose may lay and maintain in any street, whether within or outside their limits of supply, all necessary discharge pipes and apparatus, and such statutory provisions with respect to the breaking open of streets as are applicable to the undertakers shall, with any necessary modifications and adaptations, apply accordingly. [1731]

(2) Except in a case of emergency, and except in so far as may be otherwise agreed in writing between the undertakers and the board or authority concerned, the following provisions shall have effect :—

- (a) not less than seven days before commencing to discharge any such water as aforesaid through a pipe exceeding nine inches in diameter the undertakers shall give notice of their intentions to the catchment board of any catchment area and the fishery board of any fishery district within which any watercourse into which the water is to be discharged is situated and to any rivers board having jurisdiction over any such watercourse ;

- (b) the undertakers shall have due regard to any representations which may be made to them as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom ; and
- (c) where the water is to be discharged into any river, canal or other inland navigation in respect of which a navigation authority exercise functions, the undertakers shall not discharge the water without the approval of the navigation authority, or except at such times as that authority may approve and in a manner approved by them as not likely to injure the river, canal or navigation or the banks thereof, or interfere with traffic thereon :

Provided that—

- (i) whenever the undertakers propose to discharge water on a number of occasions during a period, the giving by them of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for them to give, shall constitute sufficient compliance by them with the provisions of paragraph (a) of this subsection ;
 - (ii) in the case of a river, paragraph (c) of this subsection shall not apply if the point of discharge into the river is more than three miles above the limits within which the navigation authority exercise jurisdiction ;
 - (iii) an approval required for the purposes of the said paragraph (c) shall not be withheld unreasonably, and any question whether it is withheld unreasonably or not shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers ; and
 - (iv) any approval for which application is made under the said paragraph (c) shall be deemed to have been given unless notice of disapproval is given to the undertakers within seven days after the making of the application. **[1732]**
- (3) If the undertakers are requested by—
- (a) the owner or occupier of any land which abuts on a watercourse at a point within three miles of any work of the undertakers from which water may be discharged into that watercourse under the provisions of this section ; or
 - (b) the clerk to any association of mill owners any of whose constituent members is such an owner or occupier as aforesaid,

to register him for the purposes of this section, the undertakers shall enter his name and address in a register kept by them for the purpose and, so long as his name and address appear in the register, shall, except in a case of emergency and except in so far as may be otherwise agreed with him in writing, and unless the point at which the water is to be discharged as aforesaid is situated down stream of the land in respect of which he is so registered, send to him in respect of that watercourse the like notices as they are (in the absence of any emergency or agreement to the contrary) required under the last foregoing subsection to send to such a board as is mentioned in paragraph (a) thereof. **[1733]**

(4) Except in so far as may be otherwise agreed in writing, where the undertakers discharge water during an emergency, they shall forthwith give to the boards, authorities and registered persons concerned notice thereof and such further particulars relating to the discharge as may reasonably be required. **[1734]**

(5) The undertakers shall take all necessary steps to secure that any

free as may be reasonably practicable from mud and silt, from solid, polluting, offensive or injurious matters, and from any matter prejudicial to fish or spawn, or to spawning beds or food of fish, and, if they fail to do so, shall be guilty of an offence against this Act. [1735]

(6) The powers of this section shall not be exercised so as to damage or affect injuriously any works or other property of a railway company or a navigation authority, or so as to flood or damage any highway. [1736]

(7) In the exercise of the powers conferred by this section the undertakers shall do as little damage as may be and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise of those powers and, for the purposes of this subsection, any extra expenditure which it becomes reasonably necessary for any public authority to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them.

Any question as to the amount of the compensation to be so paid shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister. [1737]

Power to supply water fittings

35.—(1) Statutory water undertakers may, on the request of any person to whom they supply or propose to supply water, supply to him, by way either of sale or hire, any such water fittings as are required or allowed by their byelaws, and may, on such request, instal, repair or alter (but not manufacture) any such water fittings, whether supplied by them or not, and may provide any materials and do any work required in connection with such installation, repair or alteration of water fittings.

The undertakers may make such charges as may be agreed or, in default of agreement, as may be reasonable for any fitting supplied, or any materials provided or work done, under this subsection and may recover such charges summarily as civil debts. [1738]

(2) If any fittings let for hire by the undertakers bear either a distinguishing metal plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the undertakers as the actual owners of the fittings, those fittings—

- (a) shall, notwithstanding that they be fixed to some part of the premises in which they are situated or be laid in the soil thereunder, continue to be the property of, and removable by, the undertakers; and
- (b) shall not be subject to distress or to the landlord's remedy for rent, or be liable to be taken in execution under any process of any court or in any proceedings in bankruptcy against the persons in whose possession they may be:

Provided that nothing in this subsection shall affect the valuation for rating of any rateable hereditament. [1739]

(3) Where the undertakers are a local authority—

- (a) the undertakers shall so adjust the charges to be made by them under this section as to meet any expenditure by them thereunder, including interest upon any moneys borrowed for the purposes thereof and any sums carried to a sinking fund for repayment of moneys so borrowed; and
- (b) the total sums expended and received by the undertakers in connection with the purposes of this section in each year, including interest and any sums carried to a sinking fund, shall be separately shown in the published accounts of the undertakers for that year.

(4) If any person wilfully or negligently injures or suffers to be injured any water fitting belonging to the undertakers, he shall be liable on summary conviction to a fine not exceeding five pounds and the undertakers may do all such work as is necessary for repairing any injury done and may recover the expenses reasonably incurred by them in so doing from the offender summarily as a civil debt. [1741]

This section replaces, in an extended form, s. 14 of the Waterworks Clauses Act, 1863.

Duty of statutory water undertakers to accept guarantees from local authorities

36.—(1) The provisions of this section shall have effect in any case where the owners or occupiers of any premises in any area can require statutory water undertakers to bring water to that area if the aggregate amount of the water rates which will be payable annually in respect of those premises will not be less than a prescribed fraction of the cost to be incurred by the undertakers in complying with the requisition, and if the owners or occupiers of those premises agree to take a supply of water for a prescribed period. [1742]

(2) If, in any such case as aforesaid, the aggregate amount of the water rates which would be payable annually in respect of any premises in the area is not sufficient to enable a valid requisition to be made by the owners and occupiers of those premises, the local authority of the district in which the area is situated may undertake that, until the water rates payable for any year in respect of premises in that area amount to a sum which would have enabled such a requisition to be made, or until the expiration of a period of twelve years, whichever first occurs, the authority will make good to the undertakers in each year the difference between that sum and the amount received by the undertakers in respect of water supplied, whether for domestic or non-domestic purposes, in that year in respect of premises in that area, and thereupon the undertakers shall lay any necessary mains and bring water to that area. [1743]

(3) Any two or more local authorities may combine for the purpose of giving such an undertaking as aforesaid. [1744]

(4) If the undertakers, after tender to them of an undertaking which satisfies the foregoing provisions of this section, do not before the expiration of three months lay the necessary mains and bring water to the area in question, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be guilty of an offence against this Act. [1745]

(5) In this section the expression "prescribed" means prescribed by the local enactments relating to the undertaking in question. [1746]

This section replaces s. 5 of the Rural Water Supplies and Sewerage Act, 1944 (Vol. XXII, p. 386).

Duty of undertakers to provide domestic supply for new buildings

37.—(1) Where an owner of land proposes to erect thereon buildings for which a supply of water for domestic purposes will be needed, he may require any statutory water undertakers within whose limits of supply that land is situated to lay any necessary mains and bring water thereto, and thereupon the undertakers shall, subject as hereinafter provided, comply with that requisition :

Provided that the undertakers before complying with a requisition under this subsection—

(a) may require the owner to undertake to pay in respect of each year a sum amounting to one-eighth of the expense of providing and laying the necessary mains (less any amounts received by the undertakers in respect of water supplied, whether for domestic or non-

domestic purposes, in that year from those mains) until the aggregate amount of water rates payable annually in respect of the buildings when erected and in respect of any other premises connected with the said mains at the rates for the time being charged by the undertakers equals or exceeds such sum as aforesaid or until the expiration of a period of twelve years, whichever first occurs; and

- (b) except where the owner is a local or public authority, may also require him to deposit with the undertakers as security for payment of the said annual sums, such sum, not exceeding the total expense of laying and providing the mains, as the undertakers may require.

[1747]

(2) The undertakers shall pay interest at the prescribed rate or, if no rate is prescribed, at four per cent. per annum on any sum in their hands by virtue of a requirement under paragraph (b) of the proviso to the last foregoing subsection, and shall, on the request of the owner of the land, appropriate out of that sum any amount due under the undertaking referred to in paragraph (a) of the said proviso and shall, when the said undertaking is finally discharged, repay to the owner any sum remaining in their hands as aforesaid. [1748]

(3) If the undertakers, after receipt of a requisition under subsection (1) of this section and after tender to them of any undertaking or deposit which they may require in accordance with that subsection, do not before the expiration of three months lay the necessary mains, and bring water to the land in question in accordance with the requisition, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be guilty of an offence against this Act. [1749]

Liability for, and recovery of, water rates

38.—(1) Water rates payable to statutory water undertakers, whether under the Public Health Act, 1936, or under any other enactment, shall be payable and recoverable in accordance with the provisions of this section and not otherwise. [1750]

(2) Except where an owner of premises who is not himself the occupier thereof is liable by or under any enactment, or by agreement with the undertakers, to pay the water rate for a supply of water to those premises, the water rate shall be payable by the occupier of the premises. [1751]

(3) The water rate payable by any person may after a demand therefor be recovered from him by the undertakers either summarily as a civil debt, or as a simple contract debt in any court of competent jurisdiction, and, subject as hereinafter provided and to the provisions of the next following subsection, where a person fails to pay within seven days after a demand therefor any instalment of a water rate payable by him in respect of any premises, the undertakers may cut off the supply of water to the premises and recover the expenses reasonably incurred by them in so doing in the same manner as the instalment due:

Provided that if, before the expiration of the said seven days, notice in writing is given to them that there is a dispute as to the amount due in respect of the water rate, or as to the liability to pay the rate, they shall not cut off the supply of water until the dispute has, on the application of either party, been settled by a court of summary jurisdiction. [1752]

(4) Where, at the date when an instalment of a water rate in respect of any premises becomes due, the owner of the premises is liable by or under any enactment, or by agreement with the undertakers, to pay the water rates for a supply of water to those premises and is not himself the occupier thereof, the undertakers shall not cut off the supply of water to the premises

for a failure by him to pay that instalment, but that instalment, without prejudice to the right of the undertakers to enforce payment thereof by him, may be recovered by them either from the owner for the time being, or, subject as hereinafter provided, from the occupier for the time being, of the premises, in the manner in which water rates are recoverable :

Provided that, where the occupier of the premises is not the owner thereof,—

- (a) proceedings shall not be commenced under this subsection against the occupier until notice has been given to him requiring him to pay the amount due out of any rent which is then due, or which may thereafter become due, from him, and he has failed to comply with the notice ; and
- (b) no greater sum shall be recovered at any one time from the occupier than the amount of rent which is owing by him, or which has accrued since such notice as aforesaid was given to him ; and
- (c) if the occupier, as between himself and the owner of the premises, is not liable to pay the water rate, he shall be entitled to deduct from the rent payable by him any sum paid by him in compliance with the notice, or so recovered from him. [1753]

(5) If any water supply is cut off by the undertakers in contravention of the provisions of this section, they shall be liable on summary conviction to a fine not exceeding five pounds for each day during which the water remains cut off. [1754]

(6) In this section the expression “ water rate ” includes any additional charge payable to the undertakers in respect of a supply of water for domestic purposes within the meaning of that expression as used in the enactments relating to the undertakers. [1755]

(7) Nothing in this section shall affect any enactment under which undertakers who are also a rating authority may be empowered to collect water rates, rents or charges together with general rates, or to recover water rates, rents or charges in the same manner as general rates. [1756]

This section replaces the provisions as to liability for, and recovery of, rates which were contained in ss. 68, 74 of the Waterworks Clauses Act, 1847, s. 21 of the Waterworks Clauses Act, 1863 and ss. 4, 5 of the Water Companies (Regulation of Powers) Act, 1887.

Notice to be given to local authority of water supply to inhabited house being cut off

39.—(1) Where, in the exercise of their powers under the last foregoing section or for any other reason, statutory water undertakers cut off the supply of water to an inhabited house, they shall within forty-eight hours give notice that they have done so to the local authority of the district in which the house is situated and, if they fail to do so, shall be liable on summary conviction to a fine not exceeding ten pounds. [1757]

(2) This section shall not apply to the administrative county of London. [1758]

Power of Minister to revise water rates and charges

40.—(1) The Minister, on an application made to him by any statutory water undertakers supplying water under a local enactment, or by a local authority within whose county or district any such undertakers supply water, or by twenty or more powers supplied with water by any such undertakers, may by order make such alteration in the rates and charges which the undertakers are authorised to levy and make as he considers reasonable :

Provided that, where the undertakers are a company, he shall not make any alteration by way of reduction unless he is satisfied that it will not endanger their ability, so long as their undertaking is managed efficiently, to provide a reasonable return upon the paid-up capital of the undertaking

(regard being had by him to any capital which the undertakers may reasonably be expected to expend during the next five years) after paying all proper expenses of and connected with the working, management and maintenance of the undertaking, providing for any contributions which the undertakers may lawfully carry to any reserve fund or contingency fund, making good depreciation (in so far as provision therefor is not made by any such fund as aforesaid), and meeting all other costs, charges and expenses, if any, properly chargeable to revenue. [1759]

(2) The provisions of Part V of the First Schedule to this Act shall apply to the making of applications and orders under this section. [1760]

(3) Unless the Minister considers that exceptional circumstances exist, he shall not vary an order made under this section before the expiration of a period of five years beginning with the date of the said order or, if it has already been varied, the last variation thereof. [1761]

(4) In relation to any period during which an order made under this section is in operation, the enactments relating to the undertakers shall have effect as if the rates and charges specified in the order made under this section were substituted for the rates and charges specified in those enactments. [1762]

This section replaces s. 1 of the Water Undertakings (Modification of Charges) Act, 1921.

Power of companies to issue redeemable stock

41.—(1) This section applies to all statutory water undertakers being companies who have before the commencement of this Act created and issued any redeemable stock, or who at any time after that date may have authority to create and issue any stock, and in this section unless the context otherwise requires—

“stock” means preference stock and debenture stock;

“preference stock” includes preference shares;

“issue” includes re-issue;

“redeemable stock” means stock issued so as to be redeemable;

“redeemed stock” means redeemable stock which has been redeemed and is available for issue under the provisions of this section. [1763]

(2) Subject to the provisions of this section, the undertakers may from time to time issue so as to be redeemable any stock created by them and any redeemed stock:

Provided that no redeemed stock shall be issued except for the purpose of effecting the redemption of redeemable stock under the provisions of this section, unless the issue is authorised by a resolution of a general meeting of the undertakers. [1764]

(3) Redeemable stock may be redeemed either by paying off the stock, or by issuing to an assenting holder of the stock other stock in substitution therefor, and for the purpose of raising money to pay off, or of providing stock in substitution for, any redeemable stock the undertakers may create new stock or issue redeemed stock, in either case so as to be redeemable or irredeemable, as they think fit:

Provided that—

(a) no new stock shall be created, nor shall any redeemed stock be issued, so as to make the total amount of any particular class of stock exceed the amount of stock of that class which the undertakers are for the time being authorised to create except during an interval of three months between the creation, or, in the case of redeemed stock, the issue, of the stock and the completion of the redemption of the redeemable stock for the purpose of redeeming which the stock of that particular class is proposed to be so created or issued; and

(b) during such interval as aforesaid the amount raised by means of any preference stock so created or issued shall, for the purposes of any enactment regulating the borrowing powers of the undertakers, be deemed not to have been raised. [1765]

(4) The redemption of any preference stock issued so as to be redeemable shall not affect the validity of any mortgage, or debenture stock, if the grant or issue thereof by the undertakers was lawful in the circumstances existing at the date of the grant or issue. [1766]

(5) Redeemable stock shall bear such rate of dividend or interest, not exceeding such maximum rate, if any, as may be prescribed in respect of the particular class of stock, and shall be redeemable at such time and in such manner and subject otherwise to such terms and conditions, as the undertakers may before the issue thereof determine :

Provided that the terms and conditions of redemption upon which any redeemable stock is issued shall be stated in any offer by the undertakers of such stock for sale and in every certificate of such stock, and no term or condition of redemption which is not so stated shall be binding upon the holder of the stock. [1767]

(6) The undertakers shall not redeem out of revenue any redeemable stock, but any discount allowed on the issue, or any premium payable on the redemption, thereof may be written off out of revenue. [1768]

(7) Nothing in any enactment relating to the undertakers shall require any stock created or issued under this section solely in substitution for any redeemable stock to be offered for sale by auction or tender :

Provided that the undertakers shall not without the approval of the Minister issue any such preference stock, if the amount required to pay the full dividend thereon will exceed the amount required to pay the full dividend on the stock in substitution for which the new stock is issued, but no holder of the stock shall be concerned to inquire whether any approval required by this subsection has been given. [1769]

(8) For the purpose of any enactment relating to stamp duty, the share capital of the undertaking shall be deemed not to have been increased by the issue of share capital in pursuance of this section for the purpose of redeeming preference stock, if the preference stock is redeemed before the expiration of such an interval as is mentioned in the provisos to subsection (3) of this section. [1770]

(9) Nothing in this section shall be taken as authorising the issue of any stock without compliance with the requirements of any Regulation for the time being in force under the Emergency Powers (Defence) Acts, 1939 and 1940. [1771]

*Accounts of companies to be made up annually and abstracts sent to
the Minister and local authorities*

42.—(1) Where statutory water undertakers are a company, they shall in each year after that in which they commence to supply water, or, if they are supplying water at the commencement of this Act, in each year after the commencement thereof, prepare in such form as the Minister may direct an abstract of the accounts of their undertaking for the preceding year showing under the appropriate heads their income and expenditure, the amount standing to the credit of any reserve or contingency fund and the balances brought forward and carried forward respectively, and the abstract so prepared shall be signed by the chairman of the undertakers and certified by the auditors of the undertaking. [1772]

(2) A copy of the said abstract so signed and certified shall be transmitted forthwith to the Minister and to the clerk of the local authority of

every county and district within which the undertakers supply water or have any waterworks. [1773]

(3) If any of the foregoing provisions of this section is not complied with, the undertakers shall in respect of each offence be liable on summary conviction to a fine not exceeding twenty pounds. [1774]

This section replaces s. 83 of the Waterworks Clauses Act, 1847, but contains no provision for inspection of the accounts such as is found in the earlier section.

Appointment of officers as directors

43. Where the statutory water undertakers are a company then notwithstanding anything in the Companies Clauses Consolidation Act, 1845, as applied by any enactment to that company—

- (a) any person employed as chief engineer, general manager or secretary of the company may be appointed a director of the company whether he is a shareholder in the company or not, but not so as to increase the number of the directors beyond the maximum number prescribed by any enactment relating to the company ;
- (b) a person appointed a director of the company by virtue of the last foregoing paragraph shall not cease to be a director by reason that he is employed as aforesaid ;
- (c) any such appointment may be made by the directors of the company as well as in manner provided by the said Act ;
- (d) the provisions of the said Act requiring directors to retire by rotation shall have effect as if a person appointed by virtue of this section were not a director :

Provided that—

- (i) not more than one director of the company shall hold office at the same time by virtue of this section ; and
- (ii) any person appointed by the directors by virtue of this section shall cease to be a director as from the date of the next ordinary general meeting of the company, unless the appointment is approved at that meeting by a majority of the votes of the proprietors of the company entitled to vote or voting, whether personally or by proxy, at the meeting. [1775]

PART V

GENERAL

Compensation to officers of statutory water undertakers

44. If, in consequence of any order made under this Act, or anything done in pursuance thereof, any person who immediately before the date of operation of the order, was an officer or servant of any statutory water undertakers affected by the order, suffers direct pecuniary loss by reason of the determination of his employment or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation under this section from such statutory water undertakers as may be specified in the order ; and for the purposes of any claim for compensation under this section, the provisions of subsections (2) (3) and (6) of section one hundred and fifty of the Local Government Act, 1933, and of the Fourth Schedule to that Act shall have effect as if—

- (a) references to a scheme or order made under Part VI of that Act were construed as references to the said order made under this Act ; and

- (b) the expression "existing officer" in the said subsections meant any person who, immediately before the date of operation of the said order, was an officer or servant employed by any statutory water undertakers affected by the order; and
- (c) references to a local authority or to the local authority were construed as references to statutory water undertakers or to the statutory water undertakers. [1776]

False information

45. Any person who—

- (a) in keeping any record or journal or in furnishing any return, abstract or information which he is required by or under this Act to keep or furnish, knowingly or recklessly makes any statement which is false in a material particular; or
- (b) for the purpose of obtaining any licence from the Minister under this Act, knowingly makes any statement which is false in a material particular;

shall be liable in respect of each offence—

- (i) on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment;
- (ii) on conviction on indictment, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment. [1777]

Restriction on right to prosecute

46. Proceedings in respect of an offence created by or under any of the provisions of this Act shall not, without the written consent of the Attorney-General, be taken by any person other than the Minister, a local authority, statutory water undertakers or person aggrieved or, in the case of an offence relating to a watercourse within a fishery district, the fishery board for that district. [1778]

Penalties for offences

47. Any person guilty of an offence against this Act shall, except where the provision by or under which the offence is created provides for the penalty to be imposed, be liable in respect of each offence—

- (a) on summary conviction, to a fine not exceeding fifty pounds and in the case of a continuing offence to a further fine not exceeding five pounds for every day during which the offence is continued after conviction;
- (b) on conviction on indictment, to a fine not exceeding two hundred pounds and in the case of a continuing offence to a further fine not exceeding twenty pounds for every day during which the offence is continued after conviction. [1779]

Entry of premises

48.—(1) Where any right of entry is conferred by any of the foregoing provisions of this Act, the following provisions of this section shall apply. [1780]

(2) Admission to any premises, not being a factory within the meaning of the Factories Act, 1937, or a place in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier. [1781]

(3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(a) that admission to any premises which any person is entitled to enter by virtue of such a right of entry has been refused to that person, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry into the premises for any purpose for which the right of entry is exercisable;

the justice may by warrant under his hand authorise that person to enter the premises if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry. [1782]

(4) Any person entitled to enter any premises by virtue of such a right of entry, or of a warrant issued under this section, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them. [1783]

(5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied. [1784]

(6) If any person who, in compliance with any of the foregoing provisions of this Act or with a warrant issued thereunder, is admitted into any premises discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable in respect of each offence—

(a) on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment;

(b) on conviction on indictment, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment. [1785]

(7) Any person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the foregoing provisions of this Act or by a warrant issued under this section shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds. [1786]

(8) This section, except subsection (6) thereof, shall not apply to any right conferred by section seven of this Act. [1787]

Inquiries by Ministers

49.—(1) The Minister may cause such inquiries to be held as he may consider necessary in connection with the discharge by him of any of his functions under this Act. [1788]

(2) The provisions of section two hundred and ninety of the Local Government Act, 1933, shall apply to all inquiries held by the Minister or the Minister of Agriculture and Fisheries or the Minister of Town and Country Planning under this Act, and the reference in subsection (4) of the said section to a local authority shall be construed as including a reference to any water undertakers concerned in the inquiry. [1789]

Power to revoke and vary orders

50. Any power conferred on the Minister by this Act to make orders shall be deemed to include a power, exercisable in the like manner and subject to the like conditions, to vary or revoke any such order. [1790]

This section may be compared with s. 12 of the Gas and Water Works Facilities Act, 1870, Amendment Act, 1873.

Regulations

51.—(1) The Minister may make regulations prescribing anything required to be prescribed for the purpose of any provision of this Act. [1791]

(2) All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new regulations.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. [1792]

Under this section the Minister has made the Water (Compulsory Purchase) Regulations, 1945 (S. R. & O., 1945, No. 1244), *post*.

Expenses of the Minister

52. Any expenses incurred by the Minister in the exercise of his functions under this Act shall be defrayed out of moneys provided by Parliament. [1793]

Expenses of Common Council

53. Any expenses incurred by the Common Council of the City of London in the exercise of their functions under this Act shall be defrayed as part of their general expenses. [1794]

Notices, etc., to be in writing

54. All notices, consents, approvals, demands and other documents authorised or required by or under this Act or any local enactment incorporating any provisions of the Third Schedule to this Act to be given, made, or issued by the Minister or any authority, board or water undertakers, and all notices and applications authorised or required by or under this Act or any such local enactment, to be given or made to the Minister or to, or to any officer of, any authority, board or water undertakers shall be in writing. [1795]

Authentication of documents

55.—(1) Any notice, consent, approval, demand or other document which any authority, board or water undertakers are authorised or required by, or under, this Act or any local enactment incorporating any provisions of the Third Schedule to this Act to give make or issue may be signed—

(a) on behalf of a local authority,—

(i) by the clerk of the authority ;

(ii) by the water engineer or manager of the water department or the surveyor or the chief financial officer of the authority as respects documents relating to matters within their respective provinces ;

(iii) by an officer of the authority authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document ;

- (b) on behalf of any board or any authority other than a local authority, by the clerk or secretary of the board or authority ;
- (c) on behalf of water undertakers not being a local authority, —
 - (i) by the clerk or secretary of the undertakers ;
 - (ii) by any other officer of the undertakers authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document. [1796]

(2) Any document purporting to bear the signature of any person expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorised by the authority, board or water undertakers to sign such a document or the particular document shall for the purposes of this Act or any local enactment incorporating any provisions of the Third Schedule to this Act, and of any byelaws made thereunder, be deemed, until the contrary is proved, to be duly given, made or issued by authority of the authority, board or undertakers concerned.

In this subsection the expression "signature" includes a facsimile of a signature by whatever process reproduced. [1797]

Service of notices, etc.

56. Any notice, consent, approval, demand or other document which is required or authorised by, or under, this Act or any local enactment incorporating any provisions of the Third Schedule to this Act, to be given to or served on any person may, in any case where no other provision as respects service is made by that local enactment, be given or served either—

- (a) by delivering it to that person ; or
- (b) in the case of an officer of any local authority, water undertakers or navigation authority, by leaving it, or sending it in a pre-paid letter addressed to him, at his office ; or
- (c) in the case of any other person, by leaving it or sending it in a pre-paid letter to him, at his usual or last known residence ; or
- (d) in the case of an incorporated company or body, by delivering it to their clerk or secretary at their registered or principal office, or by sending it in a pre-paid letter addressed to him at that office ; or
- (e) in the case of a document to be given to, or served on, a person as being the owner of any premises by virtue of the fact that he receives the rackrent thereof as an agent for another, or would so receive it if the premises were let at a rackrent, by leaving it, or sending it in a pre-paid letter addressed to him, at his place of business ; or
- (f) in the case of a document to be given to or served on the owner or occupier of any premises, if it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of "owner" or "occupier" of the premises (naming them) to which it relates, and delivering to some person on the premises, or if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises. [1798]

Proof of resolutions, etc.

57. In any proceedings under this Act, or any local enactment incorporating any provisions of the Third Schedule to this Act, a document purporting to be certified by the clerk of any local authority, or the clerk or secretary of any board or any authority other than a local authority or

of any water undertakers, as a copy of a resolution or order passed or made by them on a specified date, or as a copy of the appointment of, or of any authority given to, an officer of the authority, board or undertakers on a specified date, shall be evidence that that resolution, order, appointment or authority was duly passed, made, or given by the authority, board or undertakers concerned on the said date. [1799]

Judges and justices not disqualified by liability to rates

58. No judge of any court or justice of the peace shall be disqualified from acting in cases arising under this Act or under any local enactment incorporating any provisions of the Third Schedule to this Act, by reason only of his being liable to pay any rate or charge thereunder, or by reason only of his being liable, as one of several ratepayers or as one of any other class of persons, in common with the others to contribute to, or to be affected by, any rate or fund out of which any expenses of water undertakers are to be defrayed. [1800]

Interpretation

59.—(1) In this Act the following expressions shall, subject to any express provision or anything in the context to the contrary, have the meanings hereby respectively assigned to them, that is to say—

- “catchment board” and “catchment area,” in relation to such a board, have the same meanings as in the Land Drainage Act, 1930 ;
- “clerk”, in relation to a local authority being the council of a borough, means the town clerk ;
- “contravention” includes failure to comply, and “contravene” shall be construed accordingly ;
- “county district” means a non-county borough, urban district or rural district ;
- “cut off,” in relation to a supply of water, means stop the supply, whether by operating a tap, by disconnecting pipes, or otherwise ;
- “district,” in relation to the council of a borough, means that borough and, in relation to the Common Council of the City of London, means the City of London ;
- “enactment” means any Act of Parliament, whether public, general, local or private, any statutory order, or any provision in an Act of Parliament or statutory order ;
- “fishery board” and “fishery district” have the same meanings as in the Salmon and Freshwater Fisheries Act, 1923 ;
- “joint water board” means any joint board of local authorities constituted under section six of the Public Health Act, 1936, or any enactment repealed by that Act, or under any local enactment, for the purpose of discharging functions relating to water supply, and any joint board of local authorities constituted under section nine of this Act ;
- “land” includes any interest in land and any easement or right in, to or over land ;
- “limits of supply”, in relation to any water undertaking, means the limits within which the undertakers are for the time being authorised to supply water, so, however, that when used in relation to undertakers expressed to be supplying water under a local enactment, it means the limits within which they are authorised to supply water under such an enactment ;
- “local authority” means the council of a county, county borough or county district, the Common Council of the City of London or the council of a metropolitan borough ;

“local enactment” means any local Act of Parliament, any public general Act of Parliament relating to the supply of water in London, any statutory order or any provision in any such Act of Parliament or statutory order ;

“Minister” means Minister of Health ;

“navigation authority” means any person or body of persons, whether incorporated or not, having powers under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock ;

“owner” means, except in the Second Schedule to this Act, the person for the time being receiving the rack-rent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if those premises were let at a rackrent ;

“premises” includes land ;

“prescribed” means prescribed by regulations made by the Minister under this Act ;

“railway company” means any persons authorised by an enactment to construct, work or carry on a railway, and includes the London Passenger Transport Board ;

“rivers board” means a joint committee, board or other body constituted under subsection (3) of section fourteen of the Local Government Act, 1888, or by or under a local Act, for the purpose of exercising powers of a sanitary authority under the Rivers Pollution Prevention Act, 1876 ;

“statutory order” means an order or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament ;

“statutory water undertakers” means any company, local authority, board, committee, or other person supplying water under an enactment, and also includes, for the purposes of Part II of this Act only, any local authority authorised to supply water by the Public Health Act, 1936, but not actually supplying water under that Act, but the said expression does not include a railway company or navigation authority having statutory power to sell surplus water or anybody or person supplying water solely for the purpose of producing motive power by hydraulic pressure ;

“street” includes any highway, including a highway over any bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not ;

“supply of water in bulk” means a supply of water for distribution by the undertakers taking the supply ;

“watercourse” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than sewers vested in a local authority or a joint board of local authorities) and passages, through which water flows ;

“water fittings” includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, water-closets, soil-pans and other similar apparatus used in connection with the supply and use of water. [1801]

(2) References in this Act to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment including this Act. [1802]

(3) This section shall not apply for the purposes of the Third Schedule to this Act. [1803]

Provision as to work involving alteration of telegraphic lines

60. The expression "Act of Parliament" in section seven of the Telegraph Act, 1878 (which makes provision as to work done in pursuance of Acts of Parliament involving any telegraphic lines) shall be construed as including any order made under this Act authorising the execution of works. [1804]

Saving for protective provisions in other Acts

61. Except with the consent of the persons interested, no order made under section thirty-two of this Act shall abrogate or affect—

- (a) any provision contained in a local enactment for the protection or benefit of any specified person or class of persons or body of persons, whether incorporated or not;
- (b) any provision contained in a local enactment for conferring on or preserving to the public rights of enjoyment of air, exercise and recreation on land or rights of access to land for those purposes or for conferring any right of way;
- (c) any provision contained in a local enactment with respect to the quantity of compensation water to be discharged into any water-course or the periods during which or the manner in which such compensation water is to be discharged. [1805]

Repeals

62. The enactments mentioned in the Fifth Schedule to this Act are hereby repealed to the extent mentioned in the third column thereof:

Provided that this repeal shall not affect any byelaw in force at the commencement of this Act and made for purposes similar to the purposes for which byelaws can be made under this Act, or any order made under the Water Undertakings (Modification of Charges) Act, 1921, in force immediately before the commencement of this Act. [1806]

Short title, extent and commencement

- 63.—(1) This Act may be cited as the Water Act, 1945. [1807]
 (2) This Act shall not extend to Scotland or Northern Ireland. [1808]
 (3) This Act shall come into operation on the first day of October, nineteen hundred and forty-five. [1809]

SCHEDULES

FIRST SCHEDULE

Sections 9, 10, 12, 14, 19, 23, 26, 32 and 33

PROCEDURE FOR MAKING ORDERS, APPROVING AGREEMENTS AND MAKING AND CONFIRMING BYELAWS

In paragraphs 8, 17, and 23 the words in square brackets were substituted for the words "provisional only and shall not have effect until it is confirmed by Parliament," and in paragraphs 9 and 18 the words in the first square brackets in each case were substituted for the words "notification and confirmation," by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*. The words in square brackets after the words "Schedule" in both paragraphs 9 and 18 were added by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*. The words in square brackets in paragraph 24 were substituted for the words "and the confirmation of orders thereunder," by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

These amendments are consequent upon the application to orders under this Act of the new legislative process which is introduced by the Statutory Orders (Special Procedure) Act, 1945, and which is intended to facilitate the conferring of statutory powers during the reconstruction period.

PART I

Orders made by the Minister under sections 9 (1), 10 (1), 23, 26 (2), section 32 (2) (if made on application of undertakers) and section 33

1. An application by a company for an order under subsection (1) of section nine or subsection (1) of section ten of this Act or an order under section twenty-three thereof authorising the raising of capital or the borrowing of money must be authorised, if the company is a company within the Companies Act, 1929, by a special resolution of the members passed in the manner provided in Part IV of that Act, and, if the company is not such a company, by a resolution passed by three-fourths in value and number of the members present, either personally or by proxy, at a special meeting of which not less than twenty-one days' notice specifying the resolution has been duly given.

2. Applicants for any order to which this Part of this Schedule applies shall submit to the Minister a draft of the order which they desire him to make and shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order a notice—

- (a) stating the general effect of the order ;
- (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days from the date of the first publication of the notice ;
- (c) stating that, within the said period, any person may by notice to the Minister object to the application.

If it appears to the Minister in the case of an order relating to the Metropolitan Water Board that publication in local newspapers under this paragraph is unnecessary as respects any part of the said area, he may dispense with such publication as respects that part.

3. Not later than the date on which the said notice is first published, the applicants shall serve a copy thereof—

- (i) on the local authority of every county or district comprised wholly or partly in the area affected by the order ;
- (ii) except where the application is for an order only authorising the raising of capital or the borrowing of money, on the catchment board of any catchment area comprised wholly or partly in the area affected by the order ; and
- (iii) where it is proposed that the order shall authorise the execution of works, on the fishery board of any fishery district within which works are to be executed, and on any navigation authority or rivers board exercising functions in relation to a watercourse affected by the works proposed to be executed ;
- (iv) where it is proposed that the order shall authorise the acquisition of rights to take water, on the catchment board of any catchment area, the fishery board of any fishery district, and any navigation authority or rivers board having jurisdiction over any watercourse, from which water is to be taken under the rights acquired ;

and, in the case of a copy to be served on the council of a county, shall attach thereto a copy of the draft order.

4. The applicants shall also publish in the London Gazette a notice stating that they are about to apply for an order under this section, naming the counties and districts comprised wholly or partly in the area affected by the order, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order applied for will be found.

5. The applicants shall, at the request of any person interested, furnish to him a copy of the draft order upon payment of such charge, not exceeding two shillings, as they think reasonable.

6. The Minister may make an order in the terms of the draft submitted to him or in those terms as modified in such manner as he thinks fit, but where he proposes to make any modification and considers that persons other than the applicants may be adversely affected thereby, he shall require the applicants to give and

publish additional notices in such manner as he thinks best adapted for informing all persons so affected of the modification proposed.

7. If, before the expiration of the twenty-eight days referred to in paragraph 2 of this Part of this Schedule, or of twenty-five days from the publication of the said notice in the London Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Minister from any board or authority on whom a notice is required to be served under paragraph 3 of this Part of this Schedule, or from any other person appearing to him to be affected by the application, or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Minister, before making any order on the application, shall cause a local inquiry to be held.

8. On the making of an order to which this Part of this Schedule applies, the Minister shall give notice of the making of the order and the effect thereof to any person who has objected thereto under the foregoing provisions of this Part of this Schedule, and has not withdrawn that objection, and in that case the order shall not have effect until the expiration of twenty-eight days from the date of the said notice, and if within that period any such person gives notice to the Minister that he objects to the order and the objection is not withdrawn the order shall be [subject to special parliamentary procedure].

9. The costs incurred by the Minister in connection with the making [and notification] of an order under this Part of this Schedule [including any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act, 1945] shall be paid by the applicants and the Minister may, in a case where there are two or more applicants, apportion such costs between them, and may require the applicants to give security for the payment of such costs.

10. In this Part of this Schedule the expression "area affected by the order" means, in relation to any order, the limits of supply or proposed limits of supply of the undertakers or proposed undertakers to whose undertaking the order relates and also includes, if the order authorises the execution of works, the site of those works. [1810]

PART II

Orders made by the Minister under sections 9 (2), 10 (2), 12 (3) and 14 (1) and (if no application by undertakers) section 32 (2)

11. Before making an order to which this Part of this Schedules applies, the Minister shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order a notice—

- (a) stating the general effect of the order ;
- (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days from the date of the first publication of the notice ; and
- (c) stating that, within the said period, any person may by notice to the Minister object to the making of the order.

If it appears to the Minister in the case of an order relating to the Metropolitan Water Board that publication in local newspapers under this paragraph is unnecessary as respects any part of the said area, such publication shall not be required as respects that part.

12. Not later than the date on which the said notice is first published, the Minister shall serve a copy thereof—

- (i) on the local authority of every county or district comprised wholly or partly in the area affected by the order ;
- (ii) on the catchment board of any catchment area comprised wholly or partly in the said area ; and
- (iii) on any statutory water undertakers to whom the order relates or whose limits of supply are comprised wholly or partly in the area affected by the order ; and
- (iv) where it is proposed that the order shall authorise the execution of works, on the fishery board of any fishery district within which works are to be executed, and on any navigation authority or rivers board exercising functions in relation to a watercourse affected by the works proposed to be executed ; and

- (v) where it is proposed that the order shall provide for the furnishing of a supply of water in bulk, on the catchment board for any catchment area, the fishery board of any fishery district, and any rivers board having jurisdiction over any watercourse, from which water is taken by the persons who are to give the bulk supply ;

and in the case of a copy to be served on the council of a county shall attach thereto a copy of the draft order.

13. The Minister shall also publish in the London Gazette a notice stating that he is about to make the order, naming the counties and districts comprised wholly or partly in the area affected by the order, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order will be found.

14. The Minister shall, at the request of any person interested, furnish him with a copy of the draft order upon payment of such charge, not exceeding two shillings, as he thinks reasonable.

15. The Minister may make the order either in the terms of the draft or in those terms as modified in such manner as he thinks fit, but, where he proposes to make any modification and considers that persons, other than the water undertakers to whom the order relates, may be adversely affected thereby, he shall give and publish additional notices in such manner as he thinks best adapted for informing all persons likely to be so affected of the modification proposed.

16. If, before the expiration of the twenty-eight days referred to in paragraph 11 of this Part of this Schedule, or of twenty-five days from the publication of the said notice in the London Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Minister from any board or authority on whom a notice is required to be served under paragraph 12 of this Part of this Schedule, or from any other person appearing to him to be affected by the order, or, as the case may be, by the proposed modification, and the objections is not withdrawn, the Minister, before making the order, shall cause a local inquiry to be held.

17. On the making of any order to which this Part of this Schedule applies, the Minister shall give notice of the making of the order and the effect thereof to any person who has objected thereto under the foregoing provisions of this Part of this Schedule, and has not withdrawn that objection, and in that case the order shall not have effect until the expiration of twenty-eight days from the date of the said notice, and if within that period any such person gives notice to the Minister that he objects to the order and the objection is not withdrawn, the order shall be [subject to special parliamentary procedure].

18. The costs incurred by the Minister in connection with the making [and notification] of an order under this Part of this Schedule [including any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act, 1945] shall be paid by the undertakers to which the order relates, and, if there are two or more such undertakers, the Minister may apportion such costs between them, and may require the undertakers to give security for the payment of such costs.

19. In this Part of this Schedule the expression " area affected by the order " means, in relation to any order, the limits of supply or proposed limits of supply of the undertakers or proposed undertakers to whose undertaking the order relates and also includes, if the order authorises the execution of works, the site of those works :

Provided that, in relation to any order made under section fourteen of this Act, the said expression means the area defined by that order. [1811]

PART III

Agreements made by statutory water undertakers under section 12 and section 26

20. Statutory water undertakers who propose to enter into an agreement to which this Part of this Schedule applies shall publish once at least in each of two successive weeks in one or more local newspapers circulating within their limits of supply, a notice explaining the effect of the proposals and stating that objections thereto may be made to the Minister within twenty-eight days after the first

publication of the notice, and shall send a copy of the notice to the council of any county, the catchment board of any catchment area, the fishery board of any fishery district, and any navigation authority or rivers boards exercising functions in relation to any watercourse, from which water is obtained by the persons who propose to give the supply, or, as the case may be, from which the water is proposed to be taken under the rights to be acquired.

If it appear to the Minister in the case of an agreement to which the Metropolitan Water Board is a party that publication in local newspapers is unnecessary as respects any part of the Board's limits of supply, he may dispense with such publication as respects that part.

21. The statutory water undertakers shall also publish in the London Gazette a notice stating that they propose to enter into such an agreement as aforesaid with the persons specified in the notice and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the proposals will be found.

22. The Minister shall not approve the agreement, before the expiration of the said twenty-eight days, or before the expiration of twenty-five days from the publication of the said notice in the London Gazette, and before approving it shall consider any objections which may have been received by him before the expiration of either of the said periods, and if before such expiration an objection is received by the Minister from any such catchment board, fishery board or navigation authority as is referred to in subsection (2) of section twelve or subsection (6) of section twenty-six of this Act, as the case may be, and the objection is not withdrawn, the Minister, before approving the agreement by order in accordance with the said subsection, shall cause a local inquiry to be held.

23. On approving by order any agreement to which this Part of this Schedule applies, the Minister shall give notice of the making of the order to any catchment board, fishery board or navigation authority mentioned in the last foregoing paragraph who have objected to the approval of the agreement and have not withdrawn that objection, and in that case the order shall not have effect until the expiration of twenty-eight days from the date of the said notice, and if within that period any such board or authority give notice to the Minister that they object to the order and the objection is not withdrawn, the order shall be [subject to special parliamentary procedure].

24. The costs incurred by the Minister in connection with the approval of agreements under this Part of this Schedule (whether by order or otherwise) [including any costs incurred in relation to any such order under the Statutory Orders (Special Procedure) Act, 1945] shall be paid by the undertakers to which the agreement or order relates, and, in a case where there are two or more such undertakers, the Minister may apportion such costs between them, and may require the undertakers to give security for the payment of such costs. [1812]

PART IV

Byelaws made by statutory water undertakers under section 17 and section 18

25. Byelaws to which this Part of this Schedule applies shall be made under the common seal of the undertakers, and shall not have effect until they are confirmed by the Minister.

26. At least one month before application for confirmation of the byelaws is made—

- (a) notice of the intention to apply for confirmation shall be published in the London Gazette and in one or more local newspapers circulating in the area to which the byelaws apply; and
- (b) a copy of the byelaws shall be sent to the council of every district wholly or partly comprised in the area to which the byelaws apply, and, in the case of byelaws made under section eighteen of this Act, to the council of every county and the fishery board of any fishery district and the catchment board for any catchment area wholly or partly comprised in the area to which the byelaws apply and to any rivers board having jurisdiction in any part of the last-named area.

27. For at least one month before such application is made, a copy of the byelaws shall be deposited at the offices of the undertakers and shall at all reasonable hours be open to public inspection without payment and, in the case of byelaws made

under section eighteen of this Act, a copy of the notice referred to in sub-paragraph (a) of paragraph 26 of this Schedule shall be exhibited in some conspicuous place in each borough, urban district and rural parish wholly or partly comprised in the area to which the byelaws apply.

28. The undertakers shall, at the request of any person interested, furnish to him a copy of the proposed byelaws upon payment of such sum not exceeding one shilling as they think reasonable.

29. The Minister may confirm, or refuse to confirm, any byelaw submitted to him under this Part of this Schedule for confirmation, and may fix the date on which the byelaw is to come into operation, but if no date is so fixed the byelaw shall come into operation at the expiration of one month from the date of its confirmation.

30. A copy of the byelaws, when confirmed shall be printed and deposited at the offices of the undertakers and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum not exceeding one shilling as the undertakers think reasonable.

31. The production of a printed copy of the byelaws, upon which is endorsed a certificate purporting to be signed by the clerk or secretary of the undertakers, stating—

- (a) that the byelaws were made by the undertakers ;
- (b) that the copy is a true copy of the byelaws ;
- (c) that on a specified date the byelaws were confirmed by the Minister ;
- (d) the date, if any, fixed by the Minister for the coming into operation of the byelaws :

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this paragraph. [1813]

PART V

Orders made by the Minister revising water rates and charges under section 40

32. Applicants for any order to which this Part of this Schedule applies shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area within which the undertakers are supplying water, a notice—

- (a) stating the general effect of their proposals ;
- (b) stating that, during a period of twenty-eight days from the date of the first publication of the notice, any person may by notice to the Minister object to the application.

33. Not later than the date on which the said notice is first published, the applicants shall serve a copy thereof on the local authority of every county or district within which the undertakers are supplying water.

34. The applicants shall also publish in the London Gazette a notice stating that they are about to apply for an order under this section, naming the local authorities of the counties and districts within which the undertakers are supplying water and giving the name and date of issue of a local newspaper in which the notice explaining the effect of their proposals will be found.

35. If, before the expiration of the twenty-eight days referred to in paragraph 32 of this Part of this Schedule, or of twenty-five days from the publication of the said notice in the London Gazette, an objection is received by the Minister from any person appearing to him to be affected by the application, and is not withdrawn, the Minister, before making any order on the application, shall cause a local inquiry to be held. [1814]

SECOND SCHEDULE

Section 24

COMPULSORY PURCHASE ORDERS

Form, contents and procedure

1. A compulsory purchase order made under this Act shall be in the prescribed form and shall describe by reference to a map the land to which it applies, and shall

incorporate, subject to the modifications hereinafter mentioned and any necessary adaptations—

- (a) the Lands Clauses Acts (except sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845);
- (b) in a case where the purchaser is a local authority or a joint water board, the Acquisition of Land (Assessment of Compensation) Act, 1919, and Part II of the Town and Country Planning Act, 1944; and
- (c) Part IV of the Third Schedule to this Act.

2. The modifications subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be incorporated in the order are as follows :—

- (a) the arbitrator shall not take into account any building erected or any improvement or alteration made or any interest in land created after the date on which notice of the order having been made is published in accordance with the provisions of this Schedule if, in the opinion of the arbitrator, the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining or increasing compensation;
- (b) where any land to which an order relates is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for damage to be sustained by the owner by reason of severance or injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

3. Before submitting the order to the Minister, the local authority or undertakers shall—

- (a) publish in one or more local newspapers circulating within their limits or proposed limits of supply a notice in the prescribed form stating that such an order has been made and describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours; and
- (b) serve on every owner, lessee and occupier (except tenants for a month or a less period than a month) of any land to which the order relates a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation and specifying the time within and the manner in which objections thereto can be made.

4. If no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, then, subject to the provisions hereinafter in this Schedule contained, the Minister may, if he thinks fit, confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modification :

Provided that the Minister may require any person who has made an objection to state in writing the grounds thereof and may confirm the order without causing a local inquiry to be held if he is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed.

5. An order as confirmed by the Minister shall not, unless all persons interested consent, authorise the local authority or undertakers to purchase compulsorily any land which the order would not have authorised them so to purchase if it had been confirmed without modification.

6. In construing for the purposes of this Schedule or any order made thereunder any enactment incorporated in the order, this Act, together with the order, shall be deemed to be the special Act, and the local authority or undertakers shall be deemed to be the promoters of the undertaking.

Validity and date of operation

7. So soon as may be after a compulsory purchase order has been confirmed by the Minister, the local authority or undertakers shall publish in one or more local newspapers circulating in their limits or proposed limits of supply a notice in the prescribed form stating that the order has been confirmed, and naming a place where a copy of the order as confirmed and of the map referred to therein may be seen at all reasonable hours, and shall serve a like notice on every person who, having given notice to the Minister of his objection to the order, appeared at the public local inquiry in support of his objection.

8. If any person aggrieved by such an order as aforesaid desires to question the validity thereof on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks after the publication of the notice of confirmation of the order, make an application for the purpose to the High Court, and where any such application is duly made, the court—

- (i) may by interim order suspend the operation of the order, either generally or in so far as it affects any property of the applicant until the final determination of the proceedings; and
- (ii) if satisfied upon the hearing of the application that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, either generally or in so far as it affects any property of the applicant.

9. Subject to the provisions of the last foregoing paragraph, the order shall not be questioned by prohibition or certiorari or in any legal proceedings whatsoever, either before or after the order is confirmed, and shall become operative at the date on which notice of confirmation of the order is published in accordance with the provisions of this Schedule.

10. Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this Schedule. [1815]

[11. The provisions of paragraphs 8 to 10 of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, but except as aforesaid those provisions shall have effect in relation to an order to which that Act applies as if in paragraph 8 for the reference to the publication of the notice of confirmation of the order there were substituted a reference to the date on which the order became operative under that Act, and as if in paragraph 9 the words from "and shall become operative" to the end of the paragraph were omitted.]

This paragraph was added by the Statutory Orders (Special Procedure) Act, 1945, s. 8 and Schedule II, *ante*.

THIRD SCHEDULE*Sections 12, 26, 32, 54 to 59***PROVISIONS TO BE INCORPORATED IN ORDERS RELATING TO WATER UNDERTAKINGS***Arrangement of sections***PART I****INTERPRETATION****Section**

1. Definitions, &c.	581
---------------------	---------	-----

PART II**WORKS AND LANDS****PAGE**

2. Permissible limits of deviation	.. .. .	583
3. Limit of powers of undertakers to take water	.. .. .	583
4. General power to construct subsidiary works	.. .. .	584
5. Power of undertakers to lay or erect telephone wires, &c.	.. .. .	584
6. Penalty for obstructing construction of works	.. .. .	585
7. Power to acquire easements for underground works	.. .. .	585
8. Persons under disability may grant easements, &c.	.. .. .	585
9. Extinction of private rights of way.	.. .. .	585

PART III

COMPENSATION WATER

Section	PAGE
10. Provisions as to compensation water.	586

PART IV

MINERALS UNDERLYING WATER WORKS

11. Undertakers not entitled to underlying minerals, unless expressly purchased	587
12. Map of underground works to be prepared and kept up to date. . .	587
13. Mines lying near the works not to be worked without notice to undertakers	587
14. If undertakers unwilling to pay compensation, mines may be worked in usual manner	587
15. Power to make mining communications where continuous working is prevented	588
16. Undertakers to pay compensation for expenses incurred by reason of severance	588
17. Undertakers may enter and inspect the working of mines	588
18. Undertakers not exempted from liability for injury to mines . . .	589

PART V

POWER TO LAY MAINS, &c.

19. Power to lay mains	589
20. Conditions as to laying mains outside limits of supply	589
21. Power to lay service pipes, &c.	590

PART VI

BREAKING OPEN STREETS, &c.

22. Power to break open streets	590
23. Notice to be given before breaking open streets, &c.	590
24. Streets, &c., not to be broken open except under supervision of persons responsible therefor	591
25. Protection for railway companies, navigation authorities, tramway undertakers, etc.	591
26. Streets, &c., broken open to be reinstated without delay	592
27. Remedies where undertakers fail to comply with foregoing requirements	592
28. Application of Part VI to verges and streets and highways not maintainable at the public expense	592

PART VII

SUPPLY OF WATER FOR DOMESTIC PURPOSES

29. Duty of undertakers to lay additional mains on certain conditions . .	593
30. Right to demand supply for domestic purposes	593
31. Duty of undertakers as respects sufficiency and purity	593

PART VIII

SUPPLY OF WATER FOR PUBLIC PURPOSES

32. Undertakers to fix and maintain fire-hydrants on pipes	593
33. Undertakers to deposit keys of hydrants at certain places	594
34. Cost of hydrants	594
35. Hydrants to be placed near factories, &c., at the request of owners or occupiers	594
36. Water to be taken to extinguish fires without charge	594
37. Supply of water for cleansing sewers, &c., and for other public purposes	594
38. Penalties for default in respect of hydrants or supply of water . .	594

PART IX

CONSTANCY AND PRESSURE OF SUPPLY

39. Duty of undertakers as respects constant supply and pressure . . .	595
--	-----

PART X

LAYING AND MAINTENANCE OF SUPPLY PIPES AND COMMUNICATION PIPES

Section	PAGE
40. Laying of supply pipes, &c.	595
41. Laying of communication pipes, &c.	595
42. Power of undertakers to require separate service pipes	596
43. Power to break open streets forming boundary of limits of supply	597
44. Vesting of communication pipes and repair of such pipes and of supply pipes in highways	597

PART XI

STOPCOCKS

45. Provisions as to position, etc., of stopcocks	597
---	-----

PART XII

WATER RATES AND CHARGES

46. Water rates.	597
47. Power to make agreed charges for domestic supply	598
48. Additional charges where water supplied for domestic purposes and paid for by water rate is used for other purposes	598
49. Power to require supply to certain premises and for certain purposes to be taken by meter	599
50. Power to require supplies for refrigerating or water-softening apparatus, etc., to be taken by meter.	599
51. Power to require supply for hose-pipe to be taken by meter in certain cases	599
52. Provisions as to supply to sheds, tents, vans, etc.	599
53. Liability to water rates where buildings supplied by common pipe	600
54. Water rates on certain houses may be demanded from the owners	600
55. Making and dates for payment of water rates	600
56. Effect on water rates of alterations in valuation list	601
57. Discount for prompt payment of water rates and charges.	601
58. Recovery of rates and charges from persons leaving premises.	602
59. Register of meter to be evidence	602

PART XIII

PROVISIONS FOR PREVENTING WASTE, ETC., OF WATER, AND AS TO METERS AND OTHER FITTINGS

60. Power to require provision of cisterns in certain cases	602
61. Power to test water fittings	603
62. Power to enter premises to detect waste or misuse of water	603
63. Power to repair supply pipes	603
64. Penalty for waste, etc., of water by non-repair of water fittings	603
65. Penalties for misuse of water	603
66. Penalty for fraudulent use of water	604
67. Penalty for interference with valves and apparatus	604
68. Penalty for extension or alteration of pipes, etc.	604
69. Meters to be connected, or disconnected, by undertakers	605
70. Meters, etc., to measure water or detect waste	605

PART XIV

POLLUTION OF WATER BY MANUFACTURE, ETC., OF GAS

71. Provisions as to pollution by liquids resulting from manufacture of gas	605
72. Provision as to pollution by gas	606
73. Power to examine gas pipes to ascertain source of pollution.	606

PART XV

FINANCIAL PROVISIONS APPLICABLE TO WATER COMPANIES

74. Maximum rates of dividend	606
75. Sale of stock by auction or tender	607
76. Reserve and contingency funds	608
77. Limitation on balance carried forward at end of year	608
78. Power to pay superannuation and other allowance, etc., and to assist research	608

PART XVI

GENERAL AND MISCELLANEOUS

Section	PAGE
79. Notice of discontinuance.	609
80. Duty of undertakers to give notice of certain works	609
81. Undertakers may obtain copies of valuation list on payment	609
82. Power to enter premises.	609
83. Penalty for obstructing execution of special Act	610
84. Power to require occupier to permit works to be executed by owner	610
85. Summary proceedings for offences	610
86. Continuing offences and penalties	610
87. Restriction on right to prosecute	610
88. Inclusion of several sums in one complaint, etc.	610
89. Appeals and applications to courts of summary jurisdiction	611
90. Appeals to quarter sessions against decisions of justices	611
91. Mode of reference to arbitration	611
92. Liability of undertakers to pay compensation	611
93. Protection for works of navigation authorities and for catchment boards and railways	611
94. Copies of special Act to be kept by undertakers in their office, and deposited with certain officers	612

PART I

INTERPRETATION

Definitions, etc.

1.—(1) In this Schedule the following expressions shall, subject to any express provisions or anything in the context to the contrary, have the meanings hereby respectively assigned to them, that is to say :—

“ authorised ” means authorised by the special Act ;

“ bridge authority ” means—

(a) in the case of a county bridge, the county council ;

(b) in the case of any other bridge maintainable at the public expense, the authority who are the highway authority in respect of the highway carried by the bridge ;

“ building ” includes a part of a building if that part is separately occupied ;

“ building byelaws ” means byelaws made under Part II of the Public Health Act, 1936, with respect to buildings works and fittings, and includes byelaws made with respect to those matters under any corresponding enactment repealed by that Act, or under any such enactment as amended or extended by a local Act ;

“ business ” does not include a profession ;

“ catchment board ” and “ catchment area ”, in relation to such a board have the same meanings as in the Land Drainage Act, 1930 ;

“ communication pipe ” means—

(a) where the premises supplied with water abut on the part of the street in which the main is laid, and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the street and has a stopcock placed in those premises and as near to the boundary of that street as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock ;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the street in which the main is laid, and includes the ferrule at the junction of the service pipe with the main, and also—

(i) where the communication pipe ends at a stopcock, that stopcock ; and

(ii) any stopcock fitted on the communication pipe between the end thereof and the main ;

“ consumer ” means a person supplied, or about to be supplied, with water by the undertakers ;

- "county" means an administrative county ;
- "county district" means a non-county borough, an urban district or a rural district ;
- "enactment" means any Act of Parliament, whether public general, local or private, any statutory order or any provision in an Act of Parliament or statutory order ;
- "factory" means a factory within the meaning of the Factories Act, 1937 ;
- "fire authority" has the same meaning as in the Fire Brigades Act, 1938 ;
- "fishery board" and "fishery district" have the same meanings as in the Salmon and Freshwater Fisheries Act, 1923 ;
- "highway authority" means, in the case of a highway maintainable at the public expense, the authority in whom that highway is vested ;
- "house" means a dwelling-house, whether a private dwelling-house or not, and includes any part of a building if that part is occupied as a separate dwelling-house ;
- "land drainage authority" means a drainage authority within the meaning of the Land Drainage Act, 1930 ;
- "limits of supply," in relation to any water undertaking, means the limits within which the undertakers are for the time being authorised to supply water ;
- "local authority" means the council of a borough or of an urban or rural district, and "district," in relation to the local authority of a borough, means that borough ;
- "main" means a pipe laid by the undertakers for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe ;
- "Minister" means Minister of Health ;
- "navigation authority" means any person or body of persons, whether incorporated or not, having powers under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock ;
- "owner" means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if those premises were let at a rackrent ;
- "prescribed" means prescribed by the special Act ;
- "railway company" means any persons authorised by an enactment to construct, work or carry on a railway, and includes the London Passenger Transport Board ;
- "rivers board" means a joint committee, board or other body, constituted under subsection (3) of section fourteen of the Local Government Act, 1888, or by or under a local Act, for the purpose of exercising powers of a sanitary authority under the Rivers Pollution Prevention Act, 1876 ;
- "service pipe" means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap ;
- "sewerage authority" has the same meaning as in the Public Health Act, 1936 ;
- "special Act" means the enactment with which any provisions of this Schedule are incorporated, with or without modifications, and includes those provisions as so incorporated ;
- "statutory order" means an order or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament ;
- "statutory undertakers" means any persons authorised by an enactment to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking ;
- "street" includes any highway, including a highway over any bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not ;
- "a supply of water for domestic purposes" means a sufficient supply for drinking, washing, cooking and sanitary purposes, but not for any bath having a capacity (measured to the centre line of the overflow pipe, or in such other manner as the Minister may by regulations prescribe) in excess of fifty gallons ; and includes—

(a) a supply for the purposes of a profession carried on in any premises the greater part whereof is used as a house ; and

(b) where the water is drawn from a tap inside a house and no hosepipe or similar apparatus is used, a supply for watering a garden, for horses kept for private use and for washing vehicles so kept ;

Provided that it does not include a supply of water for the business of a laundry or a business of preparing food or beverages for consumption otherwise than on the premises ;

"supply of water in bulk" means a supply of water for distribution by the undertakers taking the supply ;

"supply pipe" means so much of any service pipe as is not a communication pipe ;

"telegraphic line" has the same meaning as in the Telegraph Act, 1878 ;

"trunk main" means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir, or from one filter or reservoir to another filter or reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits, or for the purpose of giving or taking a supply of water in bulk ;

"undertakers" means the persons whose water undertaking is authorised or regulated by the special Act ;

"watercourse" includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than sewers vested in a local authority or joint board of local authorities) and passages, through which water flows ;

"water fittings" includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, waterclosets, soil-pans and other similar apparatus used in connection with the supply and use of water. [1816]

(2) Any reference in this Schedule to the persons having the control or management of a street or bridge shall be construed as a reference, in the case of a highway or bridge maintainable at the public expense, to the authority who are the highway authority, or, as the case may be, the bridge authority in respect thereof and, in the case of any other street or bridge, to the authority or person responsible for the maintenance thereof, or, if no authority or person is responsible therefor, to the owners of the soil of the street or, as the case may be, of the structure of the bridge. [1817]

(3) References in this Schedule to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment, including the Water Act, 1945. [1818]

PART II

WORKS AND LANDS

Permissible limits of deviation

2. In the construction of any authorised works the undertakers may deviate laterally to any extent not exceeding the limits of deviation shown on the plans submitted to the Minister and, where on any street no such limits are shown, the boundaries of the street (including for this purpose any verge or roadside waste adjoining it) shall be deemed to be such limits, and they may also deviate vertically from the levels shown on the said plans to any extent :

Provided that—

(a) no embankment for a reservoir shall be constructed at a greater height above the general surface of the ground than that shown on the said plans and six feet in addition thereto ; and

(b) except for the purpose of crossing a river, stream, canal, dyke, watercourse or railway, or of crossing any lands where the consent of all persons having a legal interest therein has been obtained, no pipe or other conduit or aqueduct shall be raised above the surface of the ground otherwise than in accordance with the said plans. [1819]

This section replaces s. 11 of the Waterworks Clauses Act, 1847.

Limit of powers of undertakers to take water

3. The undertakers shall not construct any works for taking or intercepting water (other than works for intercepting foul water) from any lands acquired by

them, unless the works are authorised by, and the lands on which the works are to be constructed are specified in, the special Act or some other enactment. [1820]

General power to construct subsidiary works

4. Subject to the provisions of the last foregoing section and to any other provisions of the special Act limiting the powers of the undertakers to abstract water, the undertakers, in addition to any works specifically authorised, may in, on or over any land for the time being held by them in connection with their water undertaking construct, lay or erect for the purposes thereof, or in connection therewith, and may maintain, such reservoirs, sluices, tanks, cisterns, aqueducts, tunnels, culverts, mains, pipes, engines, pumps, machinery, filters, treatment plant, buildings and things for, or in connection with, the supply of water as they deem necessary :

Provided that any electrical works or apparatus constructed, laid or erected under this section shall be so constructed, laid or erected, and so maintained and used, as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General, or with telegraphic communication by means of any such line. [1821]

This section replaces s. 12 of the Waterworks Clauses Act, 1847.

Power of undertakers to lay or erect telephone wires, etc.

5.—(1) For the purpose of establishing telegraphic, telephonic or other electrical communication between their offices and any part of their works, or between different parts of their works, the undertakers may lay and erect in on or over any highway, and, with the consent of the owners and occupiers of any other land, in on or over that land, such wires, posts, conductors and other apparatus as they deem necessary and the provisions of the special Act relating to the breaking open of streets by the undertakers shall, with any necessary modification or adaptation, apply as respects any highway in relation to the laying, erection and maintenance of any such wires, posts, conducts or other apparatus :

Provided that the undertakers shall not lay or erect any such wires, posts, conductors or other apparatus except with the consent of the local authority and highway authority concerned and in accordance with such conditions as either of those authorities may attach to their consent, but such consent shall not be unreasonably withheld nor shall unreasonable conditions be attached thereto, and any question whether a withholding of consent or a condition is reasonable or not shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers. [1822]

(2) The undertakers shall at any time at their own expense remove any wires, posts, conductors or other apparatus laid or erected by them under the provisions of this section if they are required so to do by the local authority or a highway authority for the purpose of enabling any widening or other improvement to be carried out to a street or highway. [1823]

(3) Wires, posts, conductors or other apparatus laid or erected by the undertakers under the provisions of this section shall not be used in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act, 1869, or be installed or worked in contravention of the provisions of the Wireless Telegraphy Acts, 1904 to 1926, and shall be so constructed, maintained and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General, or with telegraphic communication by means of any such line. [1824]

(4) Where the undertakers propose, in the exercise of their powers under this section, to lay or erect any wires, posts, conductors or other apparatus over, under or in the vicinity of any electric line belonging to any electricity undertakers, the undertakers shall take all reasonable precautions so as not injuriously to affect, whether by induction or otherwise, the working or user of, or the currents in, the electric line.

Any question which may arise between the undertakers and any electricity undertakers under this subsection shall be determined by an arbitrator to be agreed between the undertakers and the electricity undertakers or, failing agreement, to be appointed by the President of the Institution of Electrical Engineers, and the arbitrator may direct the undertakers to make any alterations in their

wires, posts, conductors or other apparatus so as to comply with the provisions of this subsection and the undertakers shall make those alterations accordingly.

In this subsection the expressions "electric line" and "electricity undertakers" have the same respective meanings as in the Electricity (Supply) Acts, 1882 to 1936. [1825]

(5) Where the undertakers propose, in the exercise of their powers under this section, to lay or erect any wires, posts, conductors or other apparatus which will cross or interfere with any watercourse or works vested in, or under the control of, a land drainage authority, they shall give notice of their proposals to that authority and if within twenty-eight days that authority serve on the undertakers notice of objection to their proposals, the undertakers shall not proceed with their proposals unless all objections so made are withdrawn or the Minister after a local inquiry has approved the proposals either with or without modification :

Provided that this subsection shall not apply in relation to any wires, posts, conductors or other apparatus which the undertakers propose to lay or erect in or on a bridge carrying a highway across such a watercourse as aforesaid. [1826]

Penalty for obstructing construction of works

6. Any person who wilfully obstructs a person engaged by, or under authority of, the undertakers in setting out the line, level or site of any authorised works, or knowingly pulls up any peg or stake driven into the ground for the purpose of setting out such line, level or site, or knowingly defaces or destroys anything made or erected for that purpose, shall be liable to a fine not exceeding five pounds. [1827]

This section replaces s. 13 of the Waterworks Clauses Act, 1847.

Power to acquire easements for underground works

7.—(1) Where the undertakers are empowered by the special Act to execute any underground works, they may, in lieu of purchasing land compulsorily for the purpose of executing those works, be authorised by means of a compulsory purchase order made by the undertakers and confirmed by the Minister to purchase only such easements and rights over or in that land as may be sufficient for the said purpose and the provisions of the Second Schedule to the Water Act, 1945, shall apply, with such adaptations as may be necessary, to any compulsory purchase order made under this section. [1828]

(2) The undertakers shall not be required or, except by agreement, be entitled to fence off or sever adjoining lands any lands in respect of which they have purchased only easements or rights under the provisions of this section, and subject to those easements or rights and to any other restrictions imposed by the special Act, the owners or occupiers for the time being of those lands shall have the same rights of using and cultivating them as if that Act had not been passed. [1829]

Persons under disability may grant easements, etc.

8. Persons empowered by the Lands Clauses Acts to sell and convey, or release, any lands may, subject to the provisions of those Acts and of the special Act, grant to the undertakers any easement or right required for the purposes of the special Act over or in those lands, and the provisions of the Lands Clauses Acts, with respect to lands and rentcharges shall, so far as applicable, apply in relation to such grants and to such easements and rights :

Provided that nothing in this section shall be construed as empowering persons to grant any easement or right of water in which any other person has an interest, unless that other person concurs in the grant. [1830]

Extinction of private rights of way

9.—(1) Any private right of way over land which the undertakers are authorised to acquire compulsorily shall, if they so resolve and give notice of their resolution to the owner of the right, be extinguished as from the acquisition by them of the land, or as from the expiration of one month from the service of the notice, whichever may be the later. [1831]

(2) The undertakers shall pay compensation to all persons interested in respect of any such right so extinguished and such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with respect to the taking of lands otherwise than by agreement. [1832]

PART III

COMPENSATION WATER

Provisions as to compensation water

10.—(1) During the construction of any authorised impounding reservoir the undertakers may, subject as hereinafter provided, take from any stream to be impounded thereby such water as they may require :

Provided that, before taking any water from the stream, they shall, on an approved site, construct an approved gauge to gauge the flow of the stream and, while the flow of water through or over the gauge is less than the prescribed flow, they shall not take any water. [1833]

(2) After the completion of the reservoir the undertakers shall, at an approved point within such limits as may be prescribed, discharge into the stream from, or from streams feeding, the reservoir during every day of twenty-four hours reckoned from midnight in a uniform and continuous flow a quantity of water not less than the prescribed quantity, and, for the purpose of gauging such discharge, they shall construct and maintain in good order approved gauges on approved sites. [1834]

(3) Where the undertakers are authorised to take any water from any stream, they shall, before taking any such water, construct on approved sites approved gauges to gauge the quantity of water taken and the flow of the stream, and they shall not take any water in excess of the quantity authorised to be taken or while the flow of water through or over the gauge is less than the prescribed flow. [1835]

(4) If the undertakers—

(a) fail to construct or maintain in good order any such gauge as aforesaid, or refuse to allow any person interested to inspect and examine any such gauge or any records made thereby or kept by them in connection therewith or to take copies of any such records ; or

(b) take any water from the stream contrary to the provisions of subsection (1) or subsection (3) of this section, or fail to comply with the requirements of subsection (2) of this section with respect to the discharge of water into the stream,

they shall, without prejudice to their civil liability, if any, to a person aggrieved, be liable, in the case of an offence under paragraph (a) of this subsection, to a fine not exceeding fifty pounds, in respect of each day on which the offence has been committed or has continued, and in the case of an offence under paragraph (b) of this subsection—

(i) on summary conviction ; to a fine not exceeding fifty pounds in respect of each such day ; and

(ii) on conviction on indictment, to a fine not exceeding five hundred pounds in respect of each such day. [1836]

(5) In this section, the expression “ gauge ” includes a gauge weir or other apparatus for measuring the flow of water, and the expression “ approved ” means approved by the Minister ; and, for the purposes of this section, a catchment board, a fishery board, a rivers board and a navigation authority shall be deemed to be interested in the flow of water in, and the discharge of water into, any stream within their area or district, or, as the case may be, forming part of their system of navigation or any stream feeding such a stream or any part of that system and shall be deemed to be aggrieved by the commission of an offence under this section in relation to any such stream. [1837]

(6) The foregoing provisions of this section shall be deemed to have been accepted by all persons interested as full compensation for all water impounded by the authorised works, except in respect of any land between the foot of the embankment of the reservoir and the point of discharge approved for the purposes of subsection (2) of this section. [1838]

(7) Subject to the provisions of section five of the Criminal Justice Administration Act, 1914, any fine recovered under this section on the complaint of a fishery board or of an officer of, or person authorised by, a fishery board shall, as to the whole or such part thereof as the court may determine, be paid to the board in respect of the costs of the prosecution. [1839]

PART IV

MINERALS UNDERLYING WATERWORKS

Undertakers not entitled to underlying minerals, unless expressly purchased

11. Where the undertakers purchase any land they shall become entitled to such parts of any mines of coal, ironstone, slate or other minerals under that land as it may be necessary for them to dig, carry away or use in the construction of any waterworks authorised by the special Act, but, save as aforesaid, they shall not by virtue only of their purchase of the land become entitled to any such mines or minerals, which shall, save as aforesaid, be deemed to be excepted from the conveyance of the land unless expressly mentioned therein as conveyed thereby. [1840]

This section replaces s. 18 of the Waterworks Clauses Act, 1847.

Map of underground works to be prepared and kept up to date

12.—(1) The undertakers shall, within six months after the first occasion on which any pipes, or other conduits, or underground works are laid or constructed by them after this section is incorporated with their enactments, cause the course and situation of all existing pipes or other conduits for the collection, passage, or distribution of water and underground works belonging to them to be marked on a map (drawn on a scale not less than six inches to one mile), and shall, from time to time, within six months after the making of any alterations or additions, cause the said map to be so corrected as to show the course and situation of all such pipes and conduits, and underground works for the time being belonging to them, and the map, or a copy thereof, bearing the date of its preparation and of the last occasion on which it was corrected shall be kept at the office of the undertakers.

In this subsection the expression "pipes" does not include service pipes. [1841]

(2) The said map shall at all reasonable hours be open to inspection by any person interested free of charge. [1842]

This section replaces s. 19 of the Waterworks Clauses Act, 1847.

Mines lying near the works not to be worked without notice to undertakers

13. Subject to any agreement to the contrary, if the owner, lessee, or occupier of any mines of coal, ironstone, slate or other minerals lying under the reservoirs or buildings of the undertakers, or any of their pipes or other conduits or underground works shown on the map referred to in the last foregoing section, or lying within the prescribed distance therefrom, or, if no distance be prescribed, within forty yards therefrom, desires to work the said mines or minerals, he shall give to the undertakers thirty days' notice of his intention so to do. [1843]

This section replaces the first part of s. 22 of the Waterworks Clauses Act, 1847. The remainder of the section is replaced by s. 14 (1), *post*.

If undertakers unwilling to pay compensation, mines may be worked in usual manner

14.—(1) Upon receipt of such a notice as aforesaid, the undertakers may cause the said mines or minerals to be inspected by any person appointed by them for the purpose, and if it appears to them that the working thereof is likely to damage any of their reservoirs or buildings, or pipes, or other conduits or underground works shown on the said map, and if they are willing to pay compensation for the mines or minerals to the owner, lessee or occupier thereof, then he shall not work them, and the amount of the compensation to be paid shall, in the case of dispute, be determined by arbitration. [1844]

(2) If the undertakers have not before the expiration of the said thirty days stated their willingness to treat with the owner, lessee, or occupier for the payment of compensation, it shall be lawful for him to work the said mines and minerals, and to drain them, by means of pumps or otherwise, as if the special Act had not been passed, so, however, that no wilful damage be done to any of the said property or works of the undertakers and that the mines and minerals be not worked in an unusual manner. [1845]

(3) Any damage or obstruction occasioned to any of the said property or works of the undertakers by the working of such mines or minerals in an unusual manner shall be forthwith repaired or removed, and the damage made good, by the owner, lessee, or occupier of the mines or minerals, and if such repair or removal be not effected forthwith, or, if the undertakers deem it necessary to take action without waiting for the work to be done by the owner, lessee, or occupier, the undertakers may execute the work, and recover from the owner, lessee, or occupier the expenses reasonably incurred by them in so doing. [1846]

Sub-s. (1) of this section replaces the latter part of s. 22, and sub-ss. (2) and (3) replace s. 23, of the Waterworks Clauses Act, 1847.

Power to make mining communications where continuous working is prevented

15. If the working of any such mines or minerals as aforesaid lying under the reservoirs or buildings of the undertakers, or any of their pipes or other conduits or underground works shown on the map referred to in section twelve of this Schedule, or lying within the above-mentioned distance therefrom, mentioned in section thirteen of this Schedule, be prevented as aforesaid by reason of apprehended injury thereto, the respective owners, lessees, and occupiers of the mines or minerals may cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata the working whereof is so prevented as may be requisite to enable them to ventilate, drain, and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, or, if no dimensions are prescribed, eight feet wide and eight feet high, nor be cut or made upon any part of the said property or works of the undertakers so as to cause injury thereto. [1847]

This section replaces s. 24 of the Waterworks Clauses Act, 1847.

Undertakers to pay compensation for expenses incurred by reason of severance

16.—(1) Subject to any agreement to the contrary, the undertakers shall from time to time pay compensation to the owner, lessee, or occupier of any mines of coal, slate, ironstone, and other minerals lying on both sides of any reservoir, building, pipe, or other conduit, or other works of the undertakers for any loss and additional expense incurred by him by reason of the severance of the lands above such mines or minerals by the reservoir or other works, or by reason of the continuous working of such mines or minerals being interrupted as aforesaid, or by reason of their being worked under the restrictions imposed by the special Act, and also for any such mines or minerals not purchased by the undertakers as cannot be worked or won by reason of the making and continuance of the said works, or by reasons of such apprehended injury from the working thereof as aforesaid. [1848]

(2) The amount of any such compensation shall, in the case of dispute, be determined by arbitration. [1849]

This section replaces s. 25 of the Waterworks Clauses Act, 1847.

Undertakers may enter and inspect the working of mines

17. For the purpose of ascertaining whether any such mines or minerals as aforesaid are being, have been or are about to be worked so as to damage any of their said works, any authorised officer of the undertakers, after giving twenty-four hours' notice and on producing, if so required, some duly authenticated document showing his authority, may enter upon any lands in, on or near which the works are situate, and under which they know or suspect that any such mines are being, have been or are about to be worked, and may enter any such mines and the works connected therewith, using for their entry, inspection and return any apparatus or machinery belonging to the owner, lessee, or occupier of the mines, and may use all necessary means for discovering the distance from the said works to the parts of the mines which are being, have been or are about to be worked. [1850]

This section replaces s. 26 of the Waterworks Clauses Act, 1847.

Undertakers not exempted from liability for injury to mines

18. Nothing in the special Act shall exempt the undertakers from liability to any action or other legal proceeding to which they would have been liable in respect of any damage or injury done or occasioned to any mines by means, or in consequence, of their waterworks, if those works had been constructed or maintained otherwise than by virtue of the special Act. [1851]

This section replaces s. 27 of the Waterworks Clauses Act, 1847.

PART V

POWER TO LAY MAINS, ETC.

Power to lay mains

19.—(1) The undertakers may within their limits of supply and also subject to the provisions of the next succeeding section, outside those limits, lay a main—

- (a) in any street, subject, however, to the provisions of Part VI of this Schedule ; and
- (b) with the consent of every owner and occupier of any land not forming part of a street and with the consent of the local authority of the district in which that land is situate and also of the highway authority concerned, if the main will be laid within two hundred and twenty feet of any highway, in, on or over that land,

and may from time to time inspect, repair, alter or renew, or may at any time remove, any main laid down by them, whether by virtue of this section or otherwise :

Provided that a consent required for the purposes of this subsection shall not be unreasonably withheld and any question whether such a consent is, or is not, unreasonably withheld shall be referred to and determined by the Minister. [1852]

(2) Where the undertakers propose in the exercise of their powers under this section to lay a main which will cross or interfere with any watercourse or works vested in, or under the control of, a land drainage authority, they shall give notice of their proposals to that authority, and, if within twenty-eight days that authority serve on the undertakers notice of objection to their proposals, the undertakers shall not proceed with their proposals unless all objections so made are withdrawn, or the Minister after a local inquiry has approved the proposals, either with or without modification :

Provided that this subsection shall not apply in relation to a main which the undertakers propose to lay in a bridge carrying a highway across such a watercourse as aforesaid. [1853]

(3) Where the undertakers, in the exercise of their powers under this section, lay a main in, on or over any land not forming part of a street, or inspect, repair, alter, renew, or remove a main laid in, on or over any such land, they shall from time to time pay compensation to every person interested in that land for any damage done to, or injurious affection of, that land by reason of the inspection, laying, repair, alteration, renewal or removal of the main.

Any dispute as to the amount of compensation to be paid under this subsection shall be referred to arbitration. [1854]

(4) The undertakers may erect and maintain in any street notices indicating the position of underground water fittings used for controlling the flow of water through their mains, whether laid by virtue of this section or otherwise, and may affix such a notice to any house or other building, wall or fence. [1855]

(5) For the purposes of this section, a private street within the curtilage of a factory shall be deemed not to be, or form part of, a street. [1856]

This section and s. 21, *post*, substantially correspond to ss. 28 and 29 of the Waterworks Clauses Act, 1847. The power contained in s. 28 of the earlier Act to break open streets, etc., is reproduced in s. 22 of the present Act.

Conditions as to laying mains outside limits of supply

20.—(1) Where the undertakers, in the exercise of their powers under the last foregoing section, propose to lay a main outside their limits of supply, the provisions of that section shall apply, and the undertakers shall, in addition to giving any notice required by that section—

- (a) in the case of each county borough or county district in which they propose to lay a main, publish by advertisement in a local newspaper circulating in the borough or district a notice describing the nature of their proposals and specifying the land directly affected thereby, and naming a place where a plan illustrative of their proposals may be inspected at all reasonable hours by any person free of charge ; and
 - (b) serve, not later than the date of the publication of the advertisement, a copy of the notice on the local authority of the borough or district and on the highway authority for any highway in which they propose to lay a main. [1857]
- (2) If, within twenty-eight days after the publication of the notice referred to in the last foregoing subsection, notice of objection to their proposals is served on the undertakers by any such local authority or highway authority as aforesaid, they shall not proceed with their proposals, unless all objections so made are withdrawn, or the Minister, after a local inquiry, has approved the proposals, either with or without modification. [1858]
- (3) The foregoing provisions of this section with respect to the publication and service of, and objections to, such additional notices as are therein referred to shall not apply where the work which undertakers propose to carry out outside their limits of supply consists only of the laying of a main in a highway maintainable at the public expense and they have obtained the consent of the local authority of the county borough or county district within which that highway is situate and also, where that authority are not the highway authority for the highway in question, the consent of that highway authority. [1859]

Power to lay service pipes, etc.

21.—(1) The undertakers may in any street within their limits of supply lay such service pipes with such stopcocks and other fittings as they deem necessary for supplying water to premises within the said limits, and may from time to time inspect, repair, alter, or renew, and may at any time remove, any service pipe laid in a street whether by virtue of this section or otherwise. [1860]

(2) Where a service pipe has been lawfully laid in, on or over any land not forming part of a street, the undertakers may from time to time enter upon that land and inspect, repair, alter, renew or remove the pipe or lay a new pipe in substitution therefor, but shall pay compensation for any damage done by them.

Any dispute as to the amount of compensation to be paid under this subsection shall be determined by arbitration. [1861]

See note to s. 19, *ante*. Power to lay service pipes in streets was formerly conferred by s. 28 of the Waterworks Clauses Act, 1847.

PART VI

BREAKING OPEN STREETS, ETC.

Power to break open streets

22. Subject to the provisions of this Part of this Schedule, the undertakers may within their limits of supply for the purpose of laying, constructing, inspecting, repairing, renewing or removing mains, service pipes, plant or other works, and outside those limits for the purpose of laying any mains which they are authorised to lay and of inspecting, repairing, renewing or removing mains, break open the roadway and footpaths of any street, and of any bridge carrying a street, and any sewer, drain or tunnel in or under any such roadway or footpath, and may remove and use the soil or other materials in or under any such roadway or footpath :

Provided that they shall in the exercise of the powers conferred by this section cause as little inconvenience and do as little damage as may be, and for any damage done shall pay compensation to be determined, in case of dispute, by arbitration. [1862]

This section corresponds to s. 28 of the Waterworks Clauses Act, 1847.

Notice to be given before breaking open streets, etc.

23. Not less than fourteen clear days before they commence to break open the roadway or footpath of any street or bridge, or any sewer, drain or tunnel, the

undertakers shall give notice of their intentions, and of the time when they propose to commence the work, to the persons having the control or management of the street, bridge, sewer, drain or tunnel in question, or to some officer of those persons authorised by them to receive such notices :

Provided that—

- (a) in cases of emergency arising from defects in any pipes, plant or works, it shall be sufficient if the notice required by this section is given as soon as possible after the necessity for the work becomes known to the undertakers ;
- (b) where the roadway or footpath is broken open for the purposes mentioned in the last but one foregoing section of this Schedule, the notice shall be seventy-two hours instead of fourteen days. [1863]

This section replaces s. 30 of the Waterworks Clauses Act, 1847.

Streets, etc., not to be broken open except under supervision of persons responsible therefor

24.—(1) Subject to the provisions of this section, the undertakers shall not, save in such cases of emergency as aforesaid, break open the roadway or footpath of any street or bridge, or any sewer, drain or tunnel, except under the supervision of, and in accordance with plans approved by, the persons having the control or management thereof, or their authorised officer :

Provided that, if any difference arises in connection with the plans submitted for approval, that difference shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister, or, if he thinks fit, by the President of the Institution of Civil Engineers, and, in cases where a sewer or drain is affected, the arbitrator may direct the undertakers to execute such work as he may deem necessary for preventing any temporary interruption of drainage through that sewer or drain, and the undertakers shall comply with any direction so given. [1864]

(2) Notwithstanding anything in the last foregoing subsection, if the persons having the control or management of a street, bridge, sewer, drain or tunnel, or their authorised officer, after having received such notice of the undertakers' intentions as is mentioned in the last foregoing section, fail to question the sufficiency or propriety of any plans submitted to them, or fail to submit any alternative plans to the undertakers, or fail to attend and exercise supervision over the work, the undertakers may proceed to carry out the work. [1865]

This section replaces s. 31 of the Waterworks Clauses Act, 1847.

Protection of railway companies, navigation authorities, tramway undertakers, etc.

25.—(1) Except in cases of emergency arising from defects in pipes, plant or works, the roadway or footpath of a street or bridge which is under the control or management of, or maintainable by, a railway company or navigation authority shall not be broken open without their consent, but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Minister. [1866]

(2) Where the undertakers propose to break open the roadway or footpath of any length of street which forms a level crossing, or crosses over or under a railway or other works of a railway company or navigation authority, and which is not under the control or management of the railway company or navigation authority, they shall give to the railway company or navigation authority the like notice as they are required by the last but one foregoing section to give to the persons having the control or management of the street and, if and in so far as the proposed work is likely to affect the structure of any bridge or other works belonging to the railway company or navigation authority, shall carry out the work to the reasonable satisfaction of the engineer or other authorised officer of the railway company or navigation authority in accordance with plans approved by him.

Any dispute arising under this subsection between the persons proposing to execute work and a railway company or navigation authority, shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers. [1867]

(3) The last foregoing subsection shall, with any necessary adaptation, apply in relation to a level crossing which belongs to persons not being a railway company

or navigation authority, as it applies in relation to a level crossing belonging to such a company or authority. [1868]

(4) For the protection of persons entitled to the benefit of section thirty-two of the Tramways Act, 1870 (which relates to the rights of authorities and companies, etc., to open roads), that section shall be construed as applying to operations authorised by the special Act, and in the said section as so applied any reference to a tramway shall be construed as including a reference to a trolley vehicle system. [1869]

(5) Nothing contained in this section for the protection of owners of level crossings shall affect the decision of any question which may arise as to the legality of the construction of, or the right to continue, any level crossing. [1870]

This section replaces ss. 280, 281 of the Public Health Act, 1936.

Streets, etc., broken open to be reinstated without delay

26.—(1) When, for the purpose of executing any work, the undertakers break open the roadway or footpath of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed and to the reasonable satisfaction of the persons having the control or management thereof complete the work and fill in and consolidate the ground, and reinstate and make good the roadway or footpath, or the sewer, drain, or tunnel, as the case may be, and remove all rubbish resulting from their operations; and shall, after replacing and making good the roadway or footpath, keep it in good repair for three months, and for such further time, if any, not being more than twelve months in the whole, as the soil may continue to subside. [1871]

(2) So long as any such roadway or footpath remains broken open or obstructed, the undertakers shall make adequate arrangements for the control of traffic and shall cause the roadway or footpath to be properly fenced and guarded at all times and to be efficiently lighted between the hours of sunset and of sunrise. [1872]

This section replaces s. 32 of the Waterworks Clauses Act, 1847.

Remedies where undertakers fail to comply with foregoing requirements

27.—(1) If the undertakers fail to comply with, or contravene, any of the foregoing provisions of this Part of this Schedule, they shall, without prejudice to their civil liability, if any, to a person aggrieved, be liable to a fine not exceeding five pounds, and to a further fine not exceeding five pounds for each day on which the offence continues after notice thereof has been given to them by, or by an officer or agent of, the persons aggrieved. [1873]

(2) If the undertakers fail to comply with any of the requirements of the last foregoing section, the persons having the control or management of the street, bridge, sewer, drain or tunnel in question, may, in addition to, or in lieu of, taking proceedings under the last foregoing subsection, themselves execute any work necessary to remedy the default and may recover the expenses reasonably incurred by them in so doing from the undertakers summarily as a civil debt. [1874]

This section corresponds to ss. 33, 34 of the Waterworks Clauses Act, 1847.

Application of Part VI to verges and streets and highways not maintainable at the public expense

28.—(1) The provisions of this Part of this Schedule shall apply in relation to any land within the limits of a street, but not included in a roadway or footpath thereof, as if that land were, or formed part of, a footpath of the street. [1875]

(2) In this Part of this Schedule the expression "persons having the control or management" shall, in relation to a street not maintainable at the public expense, be deemed to include the authority by whom the street would be maintainable if it became a highway maintainable at the public expense and, accordingly, any notice required by section twenty-three of this Schedule and a copy of the plans referred to in section twenty-four thereof shall be served on that authority, but the authority shall not take any action under subsection (2) of the last foregoing section except at the request and on behalf of the other persons having the control or management of the street, bridge, sewer, drain or tunnel in question. [1876]

PART VII

SUPPLY OF WATER FOR DOMESTIC PURPOSES

Duty of undertakers to lay additional mains on certain conditions

29.—(1) The undertakers shall lay any necessary mains and bring water to any area within the limits of supply if they are required to do so by such number of owners and occupiers of premises in that area who require a supply of water for domestic purposes that the aggregate amount of water rates payable annually by those owners and occupiers in respect of those premises at the rates for the time being charged by the undertakers will not be less than one-eighth of the expense of providing and laying the necessary mains, and if those owners and occupiers agree severally with the undertakers to take a supply of water for three years at least. [1877]

(2) If the undertakers, after receipt of a requisition which satisfies the provisions of the last foregoing subsection and after tender to them of an agreement which satisfies those provisions, do not before the expiration of three months lay the necessary mains and bring water to the area in question in accordance with the requisition, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be liable to a fine not exceeding fifty pounds and to a further fine not exceeding five pounds for each day on which their default continues after conviction therefor. [1878]

This section replaces s. 36 and the latter part of s. 35 of the Waterworks Clauses Act, 1847. The first part of s. 35 is replaced by s. 31 and 39 (1), *post*.

Right to demand supply for domestic purposes

30.—(1) An owner or occupier of any premises within the limits of supply who has complied in respect of those premises with the provisions of Part X of this Schedule with respect to the laying of a supply pipe and payment or tender of the water rate shall be entitled to demand and receive from the undertakers a supply of water sufficient for domestic purposes for those premises :

Provided that nothing in the special Act shall be construed as entitling any person to demand a supply of water from a trunk main. [1879]

(2) Subject as hereinafter provided, if the undertakers make default in furnishing a supply of water for domestic purposes to a person who is entitled to demand and has demanded such a supply, or fail to maintain the supply during any period in respect of which the water rate therefor has been paid or tendered, they shall, without prejudice to their civil liability, if any, to the person aggrieved, be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after notice thereof from the person aggrieved :

Provided that the undertakers shall be under no liability if the failure to furnish or maintain a supply is due to—

- (a) frost, drought, unavoidable accident or other unavoidable cause, or the execution of necessary works ; or
- (b) failure of the person aggrieved to comply with any enactment relating to, or byelaw of, the undertakers. [1880]

This section replaces s. 53, and part of s. 43, of the Waterworks Clauses Act, 1847.

Duty of undertakers as respects sufficiency and purity

31. The undertakers shall provide in their mains and communication pipes a supply of wholesome water sufficient for the domestic purposes of all owners and occupiers of premises within the limits of supply who under the special Act are entitled to demand a supply for those purposes. [1881]

This section and s. 39 (1), *post*, replace the first part of s. 35 of the Waterworks Clauses Act, 1847. See note to s. 29, *ante*, as to replacement of the latter part of s. 35.

PART VIII

SUPPLY OF WATER FOR PUBLIC PURPOSES

Undertakers to fix and maintain fire-hydrants on pipes

32. The undertakers shall, at the request of the fire authority concerned, fix hydrants on their mains (other than trunk mains) at such places as may be most

convenient for affording a supply of water for extinguishing any fire which may break out within the limits of supply, and shall keep in good order and from time to time renew every such hydrant.

Any difference as to the number or proper position of such hydrants shall be referred to and determined by the Minister. [1882]

This section replaces, in a modern form, s. 38 of the Waterworks Clauses Act, 1847.

Undertakers to deposit keys of hydrants at certain places

33. As soon as any such hydrant is completed, the undertakers shall, if required by the fire authority, deposit a key thereof at each place within the limits of supply where any public fire engine is kept, and in such other places as may be appointed by the fire authority. [1883]

This section replaces s. 39 of the Waterworks Clauses Act, 1847, with the omission of the provision in the earlier section for the erection of notices indicating positions of fire-plugs.

Cost of hydrants

34. The cost of such hydrants as aforesaid and of fixing, maintaining and renewing them, and of providing such keys as aforesaid, shall be defrayed by the fire authority. [1884]

This section replaces s. 40 of the Waterworks Clauses Act, 1847.

Hydrants to be placed near factories, etc., at request of owners or occupiers

35. The undertakers shall, at the request and expense of the owner or occupier of any factory or place of business situated in, or near to, a street in which a pipe of the undertakers is laid (not being a trunk main and being of sufficient dimensions to carry a hydrant), fix on the pipe and keep in good order and from time to time renew one or more fire-hydrants, to be used only for extinguishing fires, as near as conveniently may be to that factory or place of business, and shall also at his expense comply as respects each such hydrant with the requirements of the last but one foregoing section. [1885]

This section replaces s. 41 of the Waterworks Clauses Act, 1847, with the additional provision for deposit of keys.

Water to be taken to extinguish fires without charge

36. The undertakers shall allow all persons to take water for extinguishing fires from any pipe of the undertakers on which a hydrant is fixed, without payment. [1886]

Supply of water for cleansing sewers, etc., and for other public purposes

37.—(1) In every pipe of the undertakers on which a hydrant is fixed the undertakers shall provide a supply of water for cleansing sewers and drains, for cleansing and watering highways, and for supplying any public pumps, baths, or washhouses. [1887]

(2) A supply of water for the said purposes shall be provided at such rates, in such quantities, and upon such terms and conditions as may be agreed between the local authority, highway authority or sewerage authority concerned and the undertakers, or as, in default of agreement, may be determined by the Minister. [1888]

This section replaces, in modern form, s. 37 of the Waterworks Clauses Act, 1847.

Penalties for default in respect of hydrants or supply of water

38. If the undertakers fail to comply with any of their obligations under this Part of this Schedule, except when prevented by frost, drought, unavoidable accident or other unavoidable cause, or during the execution of necessary works, they shall be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding five pounds for each day during which such failure continues after notice thereof from the authority or person concerned. [1889]

This section partly replaces s. 43 of the Waterworks Clauses Act, 1847.

PART IX

CONSTANCY AND PRESSURE OF SUPPLY

Duty of undertakers as respects constant supply and pressure

39.—(1) Subject as hereinafter provided, the undertakers shall cause the water in all pipes on which hydrants are fixed, or which are used for giving supplies for domestic purposes, to be laid on constantly and at such a pressure as will cause the water to reach to the top of the top-most storey in every building within the limits of supply :

Provided that—

- (a) nothing in this section shall require them to deliver water at a height greater than that to which it will flow by gravitation through their mains from the service reservoir or tank from which the supply in question is taken ; and
- (b) they may in their discretion determine the service reservoir or tank from which any supply is to be taken. [1890]

(2) If the undertakers fail to comply with the foregoing requirements of this section, except when prevented by frost, drought, unavoidable accident or other unavoidable cause, or during the execution of necessary works, they shall, without prejudice to their civil liability, if any, to a person aggrieved, be liable to a fine not exceeding ten pounds and to a further fine not exceeding forty shillings for each day during which the failure continues after notice thereof from that person :

Provided that proceedings for the recovery of a fine shall not be instituted under this subsection by more than one person in respect of the same period of failure. [1891]

Sub-s. (1) of this section, together with s. 31, *ante*, substantially replace the first part of s. 35 of the Waterworks Clauses Act, 1847. S. 39 (2) partly replaces s. 43 of the 1847 Act.

PART X

LAYING AND MAINTENANCE OF SUPPLY PIPES AND COMMUNICATION PIPES

Laying of supply pipes, etc.

40. An owner or occupier of any premises within the limits of supply who desires to have a supply of water for his domestic purposes from the waterworks of the undertakers, shall, subject as hereinafter provided, comply with the following requirements :—

- (a) he shall give to the undertakers fourteen days' notice of his intention to lay the necessary supply pipe and at, or before, the time of giving such notice shall pay or tender to them such sum as may be payable in advance by way of water rate in respect of his premises ; and
- (b) he shall lay the supply pipe at his own expense, having first obtained, as respects any land not forming part of a street, the consent of the owners and occupiers thereof :

Provided that, where any part of the supply pipe is to be laid in a highway, he shall not himself break open the highway or lay that part of the pipe. [1892]

This section substantially replaces s. 48 of the Waterworks Clauses Act, 1847.

Laying of communication pipes, etc.

41.—(1) Upon receipt of such a notice as referred to in the last foregoing section, the undertakers shall lay the necessary communication pipe and any part of the supply pipe which is to be laid in a highway and shall connect the communication pipe with the supply pipe :

Provided that where any part of the supply pipe is to be laid in a highway, they may elect to lay a main in the highway for such distance as they think fit in lieu of a supply pipe, and in that case shall lay a communication pipe from that main and connect it with the supply pipe. [1893]

- (2) If the undertakers fail to carry out the said work within fourteen days after

the person by whom the notice was given has laid a supply pipe in accordance with the provisions of the last foregoing section, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after the expiration of the said fourteen days. [1894]

(3) The expenses reasonably incurred by the undertakers in executing the work which they are required or authorised by this section to execute shall be repaid to them by the person by whom the notice was given and may be recovered by them from him summarily as a civil debt :

Provided that, if under the provisions of this section, the undertakers lay a main in lieu of a supply pipe, the additional cost incurred in laying a main instead of a supply pipe shall be borne by them. [1895]

(4) Notwithstanding anything in the foregoing provisions of this section, undertakers to whom such a notice as aforesaid is given may, within seven days after the receipt thereof, require the person giving the notice either to pay to them in advance the cost of the work, as estimated by their engineer, or to give security for payment thereof to their satisfaction, and, where they make such a requirement, the period of fourteen days referred to in subsection (2) of this section shall not commence to run until the requirement has been complied with.

If any payment so made to the undertakers exceeds the expenses which under the foregoing provisions of this section they would be entitled to recover from the person giving the notice, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, they may recover the balance from him summarily as a civil debt. [1896]

Power of undertakers to require separate service pipes

42.—(1) Subject to the provisions of this section, the undertakers may require the provision of a separate service pipe for each house or other building supplied, or to be supplied, by them with water. [1897]

(2) If, in the case of a house or other building already supplied with water but not having a separate service pipe, the undertakers give notice to the owner of the house or building requiring the provision of such a pipe, the owner shall within three months lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a highway, and the undertakers shall, within fourteen days after he has done so, lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a highway and make all necessary connections. [1898]

(3) If an owner upon whom a notice has been served under the last foregoing subsection fails to comply therewith, the undertakers may themselves execute the work which he was required to execute. [1899]

(4) The expenses reasonably incurred by the undertakers in executing the work which they are required by subsection (2) of this section to execute, or which they are empowered by the last foregoing subsection to execute, shall be repaid to them by the owner of the house or building and may be recovered by them from him summarily as a civil debt, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the house or building. [1900]

(5) If the undertakers make default in executing the work which they are required by subsection (2) of this section to execute, they shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after the expiration of the said fourteen days. [1901]

(6) For the purposes of the foregoing provisions of this section, two or more buildings in the same occupation and forming part of the same hereditament for rating purposes shall be treated as a single building. [1902]

(7) Where the owner of a group or block of houses is liable by law or undertakes in writing to pay the water rates in respect of all those houses, then, so long as he punctually pays those rates and the supply pipe of those houses is sufficient to meet the requirements thereof, the undertakers shall not require the provision of separate service pipes for those houses. [1903]

(8) Without prejudice to the provisions of the last foregoing subsection, where, on the coming into force of this section, two or more houses were being supplied

with water by a single service pipe, the undertakers shall not require the provision of separate service pipes for those houses until either—

- (a) the existing supply pipe becomes so defective as to require renewal, or is no longer sufficient to meet the requirements of the houses ; or
- (b) an instalment of the water rate in respect of any of the houses remains unpaid after the end of the period for which it is due ; or
- (c) the houses are, by structural alterations to one or more of them, converted into a larger number of houses. [1904]

Power to break open streets forming boundary of limits of supply

43. Where any premises which are within the limits of supply abut on, or are situate near to, any street which is, as to the whole or a part of its width, outside those limits, the undertakers may, for the purpose of supplying water to the owner or occupier of those premises, exercise with respect to the whole width of the street, the like powers of laying, inspecting, repairing, altering, renewing and removing service pipes with any necessary stopcocks and fittings and of breaking open the street for that purpose as are exercisable by them with respect to streets within the said limits, subject, however, to the like conditions and obligations. [1905]

Vesting of communication pipes and repair of such pipes and of supply pipes in highways

44.—(1) All communication pipes, whether laid before or after the coming into force of this section, shall vest in the undertakers and the undertakers shall at their own expense carry out any necessary works of maintenance, repair or renewal of such pipes and any work on their mains incidental thereto. [1906]

(2) The undertakers shall also carry out any such necessary works as aforesaid in the case of so much of any supply pipe as is laid in a highway, and may recover the expenses reasonably incurred by them in so doing summarily as a civil debt from the owner of the premises supplied by the pipe, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the premises. [1907]

(3) If the undertakers fail to carry out any such necessary work with all reasonable despatch after service upon them of complaint of a defect from an owner or occupier of premises affected, they shall be liable to a fine not exceeding five pounds and to a fine not exceeding forty shillings for each day on which the default continues. [1908]

PART XI

STOPCOCKS

Provisions as to position, etc., of stopcocks

45.—(1) On every service pipe laid after the coming into force of this section the undertakers shall, and on every service pipe laid before that date the undertakers may, fit a stopcock enclosed in a covered box, or pit, of such size as may be reasonably necessary. [1909]

(2) Every stopcock fitted on a service pipe after the coming into force of this section shall be placed in such position as the undertakers deem most convenient :
Provided that—

- (a) a stopcock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters those premises ; and
- (b) a stopcock in a street shall, after consultation with the highway authority concerned, be placed as near to the boundary thereof as is reasonably practicable. [1910]

PART XII

WATER RATES AND CHARGES

Water rates

46.—(1) Undertakers who supply water to any premises for domestic purposes may charge in respect thereof a water rate, which shall be calculated at a rate-pounding not exceeding the prescribed rate-pounding—

- (a) in the case of a house or of any premises not used solely for business, trade or manufacturing purposes or for the exercise of functions by any public authority, on the net annual value thereof ; and
- (b) in the case of any other premises, on such proportion of the net annual value thereof as may be prescribed or, if no proportion is prescribed, as may be determined by the Minister :

Provided that the undertakers may in any case make in respect of the supply such minimum charge as may be prescribed or, if no minimum charge is prescribed, fifteen shillings per annum. [1911]

(2) For the purposes of this Part of this Schedule, where water supplied to a house within the curtilage of a factory is used solely for the domestic purposes of occupants of the house, the house shall be deemed separate premises not forming part of the factory. [1912]

(3) For the purposes of this Part of this Schedule, the net annual value of any premises shall be taken to be that value as appearing in the valuation list in force on the first day of the period of twelve months covered by the rate :

Provided that, if that value does not appear therein, or if the water rate is chargeable on a part only of any hereditament entered therein, the net annual value of the premises supplied shall be taken to be such sum, or, as the case may be, such fairly apportioned part of the net annual value of the whole hereditament, as, in default of agreement, may be determined by a court of summary jurisdiction. [1913]

(4) Subject to the provisions of subsection (2) of this section, where there is communication, otherwise than by a highway, between buildings or parts of buildings in the occupation of the same person, those buildings or parts of buildings shall, if the undertakers so decide, be treated, for the purpose of charging water rates, as one building having a net annual value equal to the aggregate of their net annual values :

Provided that a person aggrieved by a decision of the undertakers under this subsection may appeal to a court of summary jurisdiction. [1914]

This section replaces s. 68 of the Waterworks Clauses Act, 1847, so far as the latter section provides for the payment of water rates according to annual value of the property supplied, but it is in fuller terms.

Power to make agreed charges for domestic supply

47.—(1) The undertakers, in lieu of charging a water rate, may agree with any person requiring a supply of water for domestic purposes to furnish the supply, whether by meter or otherwise, on such terms and conditions as may be agreed. [1915]

(2) Charges payable under this section (including charges for any meter supplied by the undertakers) shall be recoverable in the manner in which water rates are recoverable. [1916]

Additional charges where water supplied for domestic purposes and paid for by water rate is used for other purposes

48.—(1) Where water which the undertakers supply for domestic purposes, and in respect of which they charge a water rate—

- (a) is used for watering a garden ; or
- (b) is used for horses, washing vehicles, or other purposes, in stables, garages or other premises where horses or vehicles are kept,

the undertakers may in either case, if a hosepipe or other similar apparatus is used, charge in respect of that use of the water an additional annual sum not exceeding the prescribed sum, or, if no sum is prescribed, such sum as the Minister may determine. [1917]

(2) Where in either of such cases the water used is drawn from a tap outside a house, but no hosepipe or similar apparatus is used, the undertakers may charge an additional annual sum not exceeding one-half the maximum sum chargeable under the last foregoing subsection. [1918]

(3) Sums charged under the provisions of this section shall be paid in advance either quarterly or half-yearly, as the undertakers may determine, and shall be recoverable in the manner in which water rates are recoverable. [1919]

Power to require supply to certain premises and for certain purposes to be taken by meter

49.—(1) The following provisions of this section shall have effect where a maximum charge for a supply of water by meter is prescribed. [1920]

(2) The undertakers shall not be bound to supply with water otherwise than by meter—

- (a) any premises used as a house whereof a part is used by the same occupier for any business, trade or manufacturing purpose for which water is required or any premises used as a farmhouse ;
- (b) any public institution, hospital, mental institution, nursing home, sanatorium, school, club, hostel, assembly hall, place of public entertainment, hotel, restaurant or licensed premises, within the meaning of that expression as used in the Licensing (Consolidation) Act, 1910 ;
- (c) any boarding-house capable of accommodating twelve or more persons including the persons usually resident therein ; or
- (d) any premises which are used solely for business, trade or manufacturing purposes and in which a supply of water for domestic purposes only is required. [1921]

(3) In any of the cases mentioned in the last foregoing subsection the water shall be supplied at a charge not exceeding the prescribed charge, subject, however, to a minimum annual charge equal to the annual amount which would be payable by way of water rate for a supply of water for domestic purposes furnished to the premises in question. [1922]

Power to require supplies for refrigerating or water-softening apparatus, etc., to be taken by meter

50. Where a person who takes a supply of water for domestic purposes from the undertakers otherwise than by meter desires to use any of the water so supplied—

- (a) for operating a water-cooled refrigerating apparatus ; or
- (b) for operating any apparatus depending while in use upon a supply of continuously running water, not being an apparatus used solely for heating the water ; or
- (c) for cleaning, regenerating or supplying motive power to any apparatus used for softening water,

the undertakers may, subject as hereinafter provided, require that all water so used shall—

- (i) if a charge for a supply of water by meter is prescribed, be taken by meter at a charge not exceeding the prescribed charge ; or
- (ii) whether such a charge is prescribed or not, be paid for at a reasonable rate to be determined, in default of agreement, by a court of summary jurisdiction :

Provided that no charge shall be made under this section in respect of a water softening apparatus used within a house for which the supply of water is taken, if one such apparatus only is used and if the water softened thereby is used solely for domestic purposes. [1923]

Power to require supply for hose-pipe to be taken by meter in certain cases

51. Where water which the undertakers supply for domestic purposes and in respect of which they charge a water rate is used by means of a hose-pipe, or other similar apparatus, for watering a garden, or for horses, washing vehicles, or other purposes in stables, garages or other premises where horses or vehicles are kept, and the consumer takes also a supply of water by meter for purposes other than domestic, the undertakers may require that all water used by him by means of the hose-pipe or other apparatus shall be taken by meter and paid for at the rate for the time being applicable to his supply by meter for non-domestic purposes. [1924]

Provisions as to supply to sheds, tents, vans, etc.

52.—(1) No person shall be entitled to demand, or to continue to receive, from the undertakers a supply of water to any habitation to which this section applies unless he has—

- (a) agreed with the undertakers to take a supply of water by meter and to pay to them such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the required supply, and will cover other standing charges incurred by them in order to meet the possible maximum demand for his habitation, and will yield a reasonable return on the cost of the water supplied; and
- (b) secured to the reasonable satisfaction of the undertakers, by way of deposit or otherwise, payment of such sum as may be reasonable having regard to his possible maximum demand for water.

The annual sum to be so paid and the security to be so given shall be determined, in default of agreement, by a court of summary jurisdiction, whose decision shall be final. [1925]

(2) The habitations to which this section applies are tents, vans or other conveyances, whether on wheels or not, and sheds or similar structures, not being structures to which the building byelaws of the local authority of the district apply. [1926]

Liability to water rates where buildings supplied by common pipe

53. Where two or more houses or other buildings in the occupation of different persons are supplied with water by a common pipe, the owner or occupier of each of them shall be liable to pay the same water rate for the supply as he would have been liable to pay if it had been supplied with water by a separate pipe. [1927]

This section replaces s. 69 of the Waterworks Clauses Act, 1847.

Water rates on certain houses may be demanded from the owners

54.—(1) Where a house or other building supplied with water by the undertakers has a net annual value not exceeding thirteen pounds, the owner instead of the occupier shall, if the undertakers so resolve, pay the rate for the supply of water:

Provided that in the administrative county of London twenty pounds shall be deemed to be substituted in this section for thirteen pounds and in any area in which a higher limit of value than thirteen pounds is in force for the purposes of the proviso to subsection (1) of section eleven of the Rating and Valuation Act, 1925, that higher limit shall be deemed to be substituted in this section for thirteen pounds. [1928]

(2) An owner of premises to which a resolution of undertakers under this section applies shall, if he pays the amount due by him in respect of a water rate before the expiration of one-half of the period in respect of which the rate or instalment of the rate is payable, or before such later date as may be specified by the undertakers, be entitled to an allowance calculated at the rate of five per cent. [1929]

This section corresponds to s. 72 of the Waterworks Clauses Act, 1847, though it fixes different annual values.

Making and dates for payment of water rates

55.—(1) Undertakers who charge water rates under the special Act shall make such a rate by fixing, in respect of a period of twelve months commencing on either the first day of January, the first day of April, the first day of July or the first day of October, the rate-poundage or, as the case may be, the scale of rate-poundages, by reference to which amounts due under the rate are to be calculated and, subject to the provisions of this section, any such rate shall be payable in advance by equal quarterly instalments, on those dates, or, if the undertakers so resolve, by equal half-yearly instalments on that one of those dates which is the first day of the rate period and on the first day of the seventh month comprised in that period. [1930]

(2) A water rate under this section, or in force under any enactments relating to the undertakers immediately before the coming into operation of this section, shall unless and until a new rate is made, continue to operate in respect of each successive period of twelve months. [1931]

(3) If, and so long as, the water rates are payable in advance by half-yearly instalments—

- (a) no proceedings shall be commenced for the recovery of any such instalment until the expiration of two months from the first day of the half-year in respect of which it has been demanded; and

- (b) if the person who is, or who, but for the provision of the last foregoing section, would be, liable to pay the water rate payable in respect of any premises is in occupation of those premises during a portion only of a half-year, he, or, as the case may be, the owner of the premises, shall be liable to pay so much only of the half-yearly instalment as bears to the whole instalment the same proportion as the number of days within the half-year during which the first-mentioned person is in occupation bears to the number of days in the half-year, and, if any greater proportion of the instalment has been paid, the person by whom it was paid shall be entitled to recover the excess from the undertakers, except in so far as he has previously recovered it from an incoming occupier :

Provided that nothing in this paragraph shall exempt the owner of any premises from liability in respect of any subsequent portion of the half-year during which the premises may again become occupied. [1932]

- (4) Subject to the provisions of the last foregoing subsection—

- (a) where the undertakers commence to give a supply of water to any premises, either for the first time or after a discontinuance of supply, the then current instalment of the water rate shall become payable on the day on which notice requiring the supply is given to the undertakers or, if no such notice is given, on the day when they commence to give the supply ; and
- (b) the liability of a person to pay an instalment of a water rate shall not be affected by the fact that, before the end of the period in respect of which the instalment became payable by him, he or his tenant, as the case may be, removes from the premises in question, or causes the supply of water thereto to be discontinued. [1933]

- (5) Nothing in this section affects any right of the undertakers to make a minimum charge in respect of water rates. [1934]

This section replaces ss. 70, 71 of the Waterworks Clauses Act, 1847, and s. 130 of the Public Health Act, 1936.

Effect on water rates of alteration in valuation list

56.—(1) Where, in consequence of a proposal under section thirty-seven of the Rating and Valuation Act, 1925, an amendment is made in the valuation list for the time being in force, or in consequence of a requisition under section forty-seven of the Valuation (Metropolis) Act, 1869, a provisional list comes into operation, the amendment or provisional list shall for the purpose of calculating the amount due in respect of any water rate payable under the special Act have effect retrospectively as from the date when the proposal or requisition was made and, notwithstanding anything in the last foregoing section with respect to the equality of instalments of a water rate, any necessary adjustments shall be made in the then current instalments of the rates and any subsequent instalments thereof. [1935]

(2) If it is found that, by reason of the foregoing provisions, too much or too little has been paid in respect of any water rate, the difference shall be repaid or allowed or, as the case may be, shall be paid and may be recovered in the manner in which water rates are recoverable. [1936]

Discount for prompt payment of water rates and charges

57.—(1) The undertakers may allow discounts or rebates in consideration of prompt payment of water rates and charges :

Provided that such discounts or rebates shall be at the same rate under like circumstances to all persons and shall not in any case exceed five per cent. [1937]

(2) If, and so long as, the undertakers allow such discounts or rebates, notice of the effect of this section shall be endorsed on every demand note for water rates and charges. [1938]

(3) This section shall not apply in any case where a discount is payable under section fifty-four of this Schedule. [1939]

Recovery of rates and charges from persons leaving premises

58. If it is shown to the satisfaction of a justice of the peace on sworn information in writing that a person is quitting, or is about to quit, premises to which the undertakers supply water and has failed to pay on demand an instalment of a water rate or charge payable by, and due from, him in respect of those premises, and intends to evade payment thereof by departing from the premises, the justice may, in addition to issuing a summons for non-payment of the sum due, issue a warrant under his hand authorising the person named therein forthwith to enter the premises and to seize sufficient goods and chattels of the defaulter to meet the claim of the undertakers and to detain them until the complaint is determined upon the return of the summons. [1940]

Register of meter to be evidence

59.—(1) Where the undertakers supply water by meter, the register of the meter shall be prima facie evidence of the quantity of water consumed. [1941]

(2) Any question arising between the undertakers and a consumer with respect to the quantity of water consumed may, on the application of either party, be determined by a court of summary jurisdiction. [1942]

(3) If the meter on being tested is proved to register incorrectly to any degree exceeding five per cent.—

(a) the meter shall be deemed to have registered incorrectly to that degree since the last occasion but one before the date of the test on which a reading of the index of the meter was taken by the undertakers, unless it is proved to have begun to register incorrectly on some later date; and

(b) the amount of any refund to be made to, or of any extra payment to be made by, the consumer shall be paid or allowed by the undertakers or paid by the consumer, as the case may be, and in the case of an extra payment shall be recoverable in the manner in which water rates are recoverable. [1943]

PART XIII

PROVISIONS FOR PREVENTING WASTE, ETC., OF WATER, AND AS TO METERS AND OTHER FITTINGS

Power to require provision of cisterns in certain cases

60.—(1) The undertakers may require that—

(a) any building the supply of water to which need not under the special Act be constantly laid on under pressure; and

(b) any house the erection of which was not commenced before the coming into force of this section and to which water is required to be delivered at a height greater than thirty-five feet below the draw-off level of the service reservoir from which a supply of water is being, or is to be, furnished by them,

shall be provided with a cistern having a ball and stop-cock fitted on the pipe conveying water to it and, in the case of such a house as is mentioned in paragraph (b) of this subsection, may require that the cistern shall be capable of holding sufficient water to provide an adequate supply to the house for a period of twenty-four hours. [1944]

(2) If a consumer, whom the undertakers have in accordance with the foregoing provisions required to provide a cistern, fails to comply with the requirement, or if a consumer fails to keep in good repair any cistern in use in his building, or the ball and stop-cock appurtenant to that cistern, the undertakers may themselves provide a cistern, or execute any repairs necessary to prevent waste of water, and may recover the expenses reasonably incurred by them in so doing summarily as a civil debt from the owner of the building, but without prejudice to the rights and obligations, as between themselves, of the owner and the consumer. [1945]

This section replaces ss. 54–56 of the Waterworks Clauses Act, 1847, though in somewhat different terms; for instance, the earlier provisions do not empower the undertaker to provide a cistern, but only to turn off the water to the premises until one is provided (s. 54),

Power to test water fittings

61. The undertakers may test any water fittings used in connection with water supplied by them. [1946]

This section replaces s. 133 of the Public Health Act, 1936.

Power to enter premises to detect waste or misuse of water

62. An authorised officer of the undertakers may, between the hour of seven in the forenoon and one hour after sunset, on producing, if required, evidence of his authority, enter any premises supplied with water by the undertakers in order to examine if there be any waste or misuse of such water and, if, after production of his authority, he is refused admittance to the premises, or is obstructed in making his examination, the person refusing him admittance, or so obstructing him, shall be liable to a fine not exceeding ten pounds. [1947]

This section replaces s. 57 of the Waterworks Clauses Act, 1847, which gave a right of entry from 9 a.m. to 4 p.m. and provided for the cutting off of water if entry was obstructed.

Power to repair supply pipes

63.—(1) If the undertakers have reason to think that some injury to or defect in a supply pipe which they are not under obligation to maintain is causing, or is likely to cause, waste of water or injury to person or property, they may execute such work as they think necessary or expedient in the circumstances of the case without being requested so to do and, if any injury to or defect in the pipe is discovered, the expenses reasonably incurred by the undertakers in discovering it and in executing repairs shall be recoverable by them summarily as a civil debt from the owner of the premises supplied, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the premises. [1948]

(2) Where several houses or other buildings in the occupation of different persons are supplied with water by one common supply pipe belonging to the owners or occupiers of the houses or buildings, the amount of any such expenses as aforesaid reasonably incurred from time to time by the undertakers in the maintenance and repair of that pipe may be recovered by them summarily as a civil debt from those owners or occupiers in such proportions as, in the case of dispute, may be settled by the court. [1949]

Penalty for waste, etc., of water by non-repair of water fittings

64.—(1) If any person wilfully or negligently causes or suffers any water fitting which he is liable to maintain to—

- (a) be or remain so out of order, or so in need of repair; or
- (b) be or remain so constructed or adapted, or be so used,

that the water supplied to him by the undertakers is, or is likely to be, wasted, misused or unduly consumed, or contaminated before use, or that foul air or any impure matter is likely to return into any pipe belonging to, or connected with a pipe belonging to, the undertakers, he shall be liable to a fine not exceeding five pounds. [1950]

(2) If any water fitting which any person is liable to maintain is in such a condition, or so constructed or adapted as aforesaid, the undertakers, without prejudice to their rights to institute proceedings under the last foregoing subsection, may require that person to carry out any necessary repairs or alterations, and, if he fails to do so within forty-eight hours, may themselves carry out the work and recover from him summarily as a civil debt the expenses reasonably incurred by them in so doing. [1951]

Sub-s. (1) of this section replaces s. 17 of the Waterworks Clauses Act, 1863.

Penalties for misuse of water

65.—(1) An owner or occupier of premises supplied with water by the undertakers who without their consent supplies any of that water to another person for use in other premises, or wilfully permits another person to take any of that water for use in other premises, shall (without prejudice to the right of the undertakers to recover from such owner or occupier the value of the water so supplied or permitted to be taken) be liable to a fine not exceeding five pounds, unless that other person requires the water for the purpose of extinguishing a fire, or is a person sup-

plied with water by the undertakers but temporarily unable, through no default of his own, to obtain water. [1952]

(2) If a person wrongfully takes, uses or diverts water from a reservoir, watercourse, conduit, pipe or other apparatus belonging to the undertakers, or from a pipe leading to or from any such reservoir, watercourse, conduit, pipe or other apparatus, or from a cistern or other receptacle containing water belonging to the undertakers or supplied by them for the use of a consumer of water from them, he shall be liable to a fine not exceeding five pounds. [1953]

(3) Any person who, having from the undertakers a supply of water otherwise than by meter, uses any water so supplied to him for a purpose other than those for which he is entitled to use it shall be liable to a fine not exceeding forty shillings, without prejudice to the right of the undertakers to recover from him the value of the water misused. [1954]

This section replaces the combined provisions of ss. 58, 59 of the Waterworks Clauses Act, 1847, and ss. 18, 20 of the Waterworks Clauses Act, 1863.

Penalty for fraudulent use of water

66.—(1) If any person fraudulently alters the index of any meter used by the undertakers for measuring the water supplied by them, or prevents any such meter from registering correctly the quantity of water supplied, or fraudulently abstracts or uses water of the undertakers, he shall, without prejudice to any other right or remedy of the undertakers, be liable to a fine not exceeding five pounds, and the undertakers may do all such work as is necessary for securing the proper working of the meter, and may recover the expenses reasonably incurred by them in so doing from the offender summarily as a civil debt. [1955]

(2) For the purposes of this section, if it is proved that a consumer has altered the index of a meter, it shall rest upon him to prove that he did not alter it fraudulently, and the existence of any artificial means under the control of a consumer for preventing a meter from registering correctly, or for enabling him fraudulently to abstract or use water, shall be evidence that he has fraudulently prevented the meter from registering correctly or, as the case may be, has fraudulently abstracted or used water. [1956]

This section substantially replaces s. 135 of the Public Health Act, 1936.

Penalty for interference with valves and apparatus

67. If any person either—

- (a) wilfully and without the consent of the undertakers; or
- (b) negligently,

turns on, opens, closes, shuts off or otherwise interferes with any valve, cock or other work or apparatus belonging to the undertakers and thereby causes the supply of water to be interfered with, he shall be liable to a fine not exceeding five pounds and, whether proceedings be taken against him in respect of his offence or not, the undertakers may recover from him summarily as a civil debt the amount of any damage sustained by them:

Provided that this section shall not apply to a consumer closing the stop-cock fixed on the service pipe supplying his premises, so long as he has obtained the consent of any other consumer whose supply will be affected thereby. [1957]

This section corresponds to s. 60 of the Waterworks Clauses Act, 1847, though it is in somewhat different terms.

Penalty for extension or alteration of pipes, etc.

68.—(1) Any person who without the consent of the undertakers attaches any pipe or apparatus to a pipe belonging to the undertakers, or to a supply pipe, or makes any alteration in a supply pipe or in any apparatus attached to a supply pipe, shall be liable to a fine not exceeding five pounds, and any person who uses any pipe or apparatus which has been so attached, or altered, shall be liable to the same penalty unless he proves that he did not know, and had no grounds for suspecting, that it had been so attached or altered. [1958]

(2) When an offence under this section has been committed, then, whether proceedings be taken against the offender in respect of his offence or not, the undertakers may recover from him summarily as a civil debt the amount of any damage

sustained by them and the value of any water wasted, misused or improperly consumed. [1959]

This section substantially replaces s. 19 of the Waterworks Clauses Act, 1863.

Meters to be connected, or disconnected, by undertakers

69.—(1) A consumer who has not obtained the consent of the undertakers shall not connect or disconnect any meter by means of which water supplied by the undertakers is intended to be, or has been, measured for the purposes of the payment to be made to them, but, if he requires such a meter to be connected or disconnected, shall give to the undertakers not less than twenty-four hours' notice of his requirements and of the time when the work can be commenced and, thereupon, the undertakers shall carry out the necessary work and may recover from him summarily as a civil debt the expenses reasonably incurred by them in so doing. [1960]

(2) A consumer who contravenes any of the provisions of this section, and undertakers who fail to carry out with all reasonable despatch any such work as aforesaid, shall be liable to a fine not exceeding forty shillings. [1961]

Meters, etc., to measure water or detect waste

70. Subject to the provisions of the special Act with respect to the breaking open of streets, the undertakers may for the purpose of measuring the quantity of water supplied, or preventing and detecting waste, affix and maintain meters and other apparatus on their mains and service pipes and may insert in any street, but as near as is reasonably practicable to the boundary thereof, the necessary covers or boxes for giving access and protection thereto, and may for that purpose temporarily obstruct, break open, and interfere with streets, tramways, sewers, pipes, wires and apparatus :

Provided that the undertakers shall not under the powers of this section interfere with—

- (a) any telegraphic line belonging to or used by the Postmaster-General, except in accordance with, and subject to, the provisions of the Telegraph Act, 1878 ; or
- (b) any works or apparatus of any electricity undertakers, except in accordance with the provisions of section fifteen of the Electric Lighting Act, 1882, or section seventeen of the Schedule to the Electric Lighting (Clauses) Act, 1899 ; or
- (c) any pipes or apparatus of any gas undertakers, except under the supervision (if given) of an authorised officer of those undertakers and in accordance with plans approved by them or by such officer, or, in case of any difference, by a court of summary jurisdiction. [1962]

PART XIV

POLLUTION OF WATER BY MANUFACTURE, ETC., OF GAS

Provisions as to pollution by liquids resulting from manufacture of gas.

71.—(1) Any person manufacturing or supplying gas who—

- (a) causes or suffers any washing or other liquid produced in, or resulting from, the manufacture or supply of gas, or the treatment of any residual products of the manufacture of gas, to run or be conducted—
 - (i) into, or into any drain communicating with, any spring, stream, reservoir, aqueduct or other waterworks belonging to the undertakers ; or
 - (ii) into any depression in the ground or excavation in such proximity to any spring, well or adit belonging to any such undertakers that contamination of water therein is reasonably probable ; or
- (b) wilfully does any other act connected with the manufacture or supply of gas, or the treatment of any such residual products as aforesaid, whereby any water of the undertakers is fouled,

shall be liable—

- (a) on summary conviction, to a fine not exceeding fifty pounds and to a further fine not exceeding ten pounds for each day during which his offence continues after the expiration of twenty-four hours from the service on him by the undertakers of notice of his offence ; or
- (b) on conviction on indictment, to a fine not exceeding two hundred pounds and to a further fine not exceeding twenty pounds for each such day as aforesaid. [1963]

This section replaces ss. 62, 63 of the Waterworks Clauses Act, 1847.

Provision as to pollution by gas

72. If water belonging to the undertakers is fouled by gas belonging to any person manufacturing or supplying gas, he shall be liable to a fine not exceeding twenty pounds, and to a further fine not exceeding ten pounds for each day during which his offence continues after the expiration of twenty-four hours from the service on him by the undertakers of notice of his offence. [1964]

This section replaces s. 64 of the Waterworks Clauses Act, 1863.

Power to examine gas pipes to ascertain source of pollution

73.—(1) For the purpose of ascertaining whether water belonging to them is being fouled by gas belonging to any person manufacturing or supplying gas, the undertakers may open the ground, and examine the pipes and other works of that person :

Provided that, before proceeding so to do, they shall give twenty-four hours' notice of the time at which the examination is intended to take place both to that person and also to the persons having the control or management of the street or other place where they propose to open the ground, and shall be subject to the like obligations and liable to the same penalties in relation to reinstatement, maintenance and other matters as those to which they are subject and liable when breaking open streets for the purpose of laying water pipes. [1965]

(2) If, upon such examination as aforesaid, it appears that water of the undertakers has been fouled by gas belonging to the said manufacturer or supplier of gas, the undertakers may recover from him summarily as a civil debt the expenses reasonably incurred by them in connection with the examination and the repair of the street or place disturbed in the examination, but otherwise the undertakers shall pay all expenses of the examination and repair, and shall also make good to the said person any injury which may be occasioned to his pipes or other works by the examination.

The amount of the expenses of any such examination and repair, and of any injury so occasioned, shall, in default of agreement, be referred to arbitration. [1966]

This section replaces ss. 65–67 of the Waterworks Clauses Act, 1847.

PART XV

FINANCIAL PROVISIONS APPLICABLE TO WATER COMPANIES

Maximum rates of dividend

74.—(1) Subject to the provisions of this section, where the undertakers are a company, they shall not in respect of any year pay dividends on the paid-up capital of their undertaking at rates per cent. greater than the following rates, that is to say :—

- (a) on capital subscribed before the date on which this section comes into force, the rates which they were entitled to pay thereon immediately before that date ; and
- (b) on capital subscribed after that date, five per cent. or, in the case of such capital entitled by the terms of subscription to a rate of dividend lower than five per cent., that lower rate. [1967]

(2) Nothing in the last foregoing subsection shall prevent the payment of a greater dividend in order to make up deficiencies in previous dividends :

Provided that, as respects capital subscribed after the date on which this section comes into force, this subsection shall apply only in relation to deficiencies arising during the last five years before the year in respect of which a dividend is being paid. [1968]

(3) Paragraph (1) of subsection (1) of section one of the Trustee Act, 1925 (which includes among trustee stocks any debenture, guarantee or preference stocks of water undertakers, being a company incorporated by special Act of Parliament or by Royal Charter, if for the previous ten years the company has paid a dividend of not less than five per centum on its ordinary stock) shall apply in a case where the undertakers are incorporated by statutory order as well as in a case where they are such a company as is referred to in that paragraph, and shall have effect, in any case to which the paragraph as extended by this subsection applies, as if for the words "five per centum" there were substituted the words "four per centum." [1969]

This section corresponds to s. 75 of the Waterworks Clauses Act, 1847.

Sale of stock by auction or tender

75.—(1) Where the undertakers are a company, all ordinary and preference stock issued by them shall be issued in accordance with the following provisions of this section. [1970]

(2) All stock issued by the undertakers shall be offered for sale by public auction or tender in such manner, at such times and subject to such conditions of sale as the undertakers from time to time determine :

Provided that—

- (a) notice of the intended sale shall be given in writing to the local authority of every district wholly or partly within their limits of supply and to the secretary of the London Stock Exchange at least seven days before the day of auction or the last day for the reception of tenders, as the case may be, and shall be advertised once in each of two successive weeks in one or more local newspapers circulating within the limits of supply ;
- (b) a reserve price shall be fixed and notice thereof shall be sent by the undertakers in sealed letter to be received by the Minister not less than twenty-four hours before, but not to be opened until after, the day of auction or the last day for the receipt of tenders, as the case may be ;
- (c) in the case of a sale by auction, no lot offered for sale shall comprise stock of greater nominal value than one hundred pounds ;
- (d) in the case of a sale by tender, no preference shall be given to one of two or more persons tendering the same sum, except that the offer by tender of any holder of stock of the undertakers may be accepted in preference to the offer of the same sum by any person who is not such a holder as aforesaid and preference may in like manner be given to the offer of any employee of the undertakers or consumer of water supplied by the undertakers ;
- (e) in the case of a sale by auction a bid (other than a first bid) shall not be recognised unless it is in advance of the last preceding bid ; and
- (f) it shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the undertakers within three months after the date of the auction or of the acceptance of the tender, as the case may be. [1971]

(3) Any stock which has been offered for sale in accordance with the last foregoing subsection and is not sold may be disposed of at such price and in such manner as the undertaker may determine for the purpose of realising the best price obtainable. [1972]

(4) As soon as possible after the conclusion of the sale or sales, the undertakers shall send a report thereof to the Minister stating the total amount of each class of stock sold, the total amount obtained as premium (if any) and the highest and lowest prices obtained for each class of stock. [1973]

Reserve and contingency funds

76.—(1) Where the undertakers are a company, they may, subject to the provisions of this section, by setting apart in any year out of revenue such sums as they think fit, form and maintain—

- (a) a reserve fund, for the purpose of making good any deficiency which may at any time occur in the amount of divisible profits, or of meeting any extraordinary claim or demand which may at any time be made upon them ;
- (b) a contingency fund, for the purpose of meeting contingencies, or defraying the cost of renewing, repairing, enlarging or improving any part of the works forming part of the undertaking. [1974]

(2) Any sums so set apart for the formation or maintenance of a reserve or contingency fund may from time to time be invested in securities in which trustees are authorised to invest moneys, and, subject to the provisions of the next but one succeeding subsection, the dividends and interest arising from such securities may also be invested in the same or like securities so as to accumulate at compound interest for the credit of the fund in question. [1975]

(3) The undertakers shall transfer to any reserve fund or contingency fund formed under the foregoing provisions of this section any sum then standing to the credit of any existing reserve fund or contingency fund, as the case may be. [1976]

(4) Whenever, and so long as, the aggregate amount standing to the credit of the reserve fund and contingency fund together amounts to (or, by reason of such a transfer as aforesaid, exceeds) a sum equal to twelve and a half per cent. of the capital expenditure theretofore incurred by the undertakers for the purposes of their undertaking, no contribution from the revenue of the undertaking shall be made to either of the funds, and the interest and dividends on the funds shall not be invested but shall be treated as income of the undertaking. [1977]

(5) The aggregate amount which, subject to the provisions of the last foregoing subsection, may be carried by the undertakers in any year to the formation or maintenance of the reserve fund and contingency funds shall not exceed a sum equal to one and a quarter per cent. of the capital expenditure theretofore incurred by the undertakers for the purposes of their undertaking. [1978]

This section in effect replaces ss. 76–79 of the Waterworks Clauses Act, 1847, though the provisions are substantially different from those of the earlier sections.

Limitation on balance carried forward at end of year

77.—(1) Where the undertakers are a company, it shall not be lawful for them to carry forward at the end of any year to the credit of the profit and loss (net revenue) account any sum exceeding the total of the following amounts, that is to say :—

- (a) the amount required for paying any dividend or interest which they are entitled, or required, to pay, but have not paid, in respect of that year ;
- (b) an amount equal to the total sum which they will be required to pay during the next year as interest on any mortgages or debenture stock ; and
- (c) an amount equal to the total sum which they might lawfully distribute as dividends on the preference and ordinary capital of the undertaking in respect of the next following year. [1979]

(2) Any sum which, but for the provisions of this section, might at the end of any year have been so carried forward as aforesaid shall be applied towards the reduction of water rates and charges in future years. [1980]

Power to pay superannuation and other allowances, etc., and to assist research

78.—(1) Where the undertakers are a company, they may—

- (a) grant gratuities, pensions or superannuation allowances to, or to the widows, families or dependants of, their employees ;
- (b) establish contributory superannuation schemes, and establish and contribute to superannuation funds for the benefit of their employees ;
- (c) enter into and carry into effect agreements with any insurance company or other association or company for securing to any such employee, widow, family or dependant such gratuities, pensions or allowances as are by this section authorised to be granted ;

- (d) give donations or subscriptions to charitable institutions, sick funds, benevolent funds and other objects calculated to benefit their employees ;
- (e) subscribe to the funds of any association formed for the purpose of furthering the interests of water undertakers ;
- (f) make contributions for furthering research in matters with which water undertakers and their officers are concerned. [1981]

(2) No employee of the undertakers shall be required to become a contributor to any superannuation fund established under this section until the fund has been registered under the Superannuation and other Trust Funds (Validation) Act, 1927. [1982]

PART XVI

GENERAL AND MISCELLANEOUS

Notice of discontinuance

79. A consumer who wishes the supply of water to his premises to be discontinued shall give not less than twenty-four hours' notice to the undertakers. [1983]

Duty of undertakers to give notice of certain works

80. The undertakers, before commencing to execute repairs or other work which will cause any material interference with the supply of water, shall, except in a case of emergency, give to all consumers likely to be affected such notice as is reasonably practicable and shall complete the work with all reasonable despatch. [1984]

Undertakers may obtain copies of valuation list on payment

81.—(1) The rating authority of any area within which the undertakers supply water shall on application furnish to the undertakers a copy of their current valuation list, or of such part thereof or such entries therein as may be specified in the application, and their clerk shall, upon request, certify any such copy in accordance with the provisions of section forty-three of the Rating and Valuation Act, 1925. [1985]

(2) In respect of every such copy the rating authority may demand a sum not exceeding five shillings for every hundred entries numbered separately, and for the purposes of this subsection any number of entries less than a complete hundred shall be treated as a complete hundred. [1986]

Power to enter premises

82.—(1) Subject to the provisions of this section, any authorised officer of the undertakers shall, on producing, if so required, some duly authenticated document showing his authority, has a right to enter any premises at all reasonable hours—

- (a) for the purpose of inspecting and examining meters used by the undertakers for measuring the water supplied by them, and of ascertaining therefrom the quantity of water consumed ;
- (b) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of the special Act or of any byelaws made thereunder ;
- (c) for the purpose of ascertaining whether or not circumstances exist which would authorise the undertakers to take action, or execute any work, under the special Act or any such byelaws ;
- (d) for the purpose of taking any action, or executing any work, authorised or required by the special Act or any such byelaws to be taken, or executed, by the undertakers :

Provided that admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier. [1987]

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry ; and
- (b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid,

the justice may by warrant under his hand authorise the undertakers by any authorised officer to enter the premises, if need be by force :

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry. [1988]

(3) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them. [1989]

(4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied. [1990]

(5) If any person who in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months. [1991]

(6) Nothing in this section shall be construed as limiting the power of entry conferred in Part XIII of this Schedule for the purpose of making examination as to waste or misuse of water. [1992]

This section replaces s. 15 of the Waterworks Clauses Act, 1863, but confers more extensive powers of entry than are conferred by the earlier section.

Penalty for obstructing execution of special Act

83. A person who wilfully obstructs any person acting in the execution of the special Act, or of any byelaw or warrant made or issued thereunder, shall be liable to a fine not exceeding five pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor. [1993]

Power to require occupier to permit works to be executed by owner

84. If, on a complaint made by the owner of any premises, it appears to a court of summary jurisdiction that the occupier of those premises prevents the owner from executing any work which he is by, or under, the special Act required to execute, the court may order the occupier to permit the execution of the work. [1994]

Summary proceedings for offences

85. Save as otherwise expressly provided, all offences and fines under the special Act may be prosecuted and recovered under the Summary Jurisdiction Acts. [1995]

Continuing offences and penalties

86. Where provision is made by, or under, the special Act for the imposition of a daily penalty in respect of a continuing offence, the court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court and, where a court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof. [1996]

Restriction on right to prosecute

87. Proceedings in respect of an offence created by, or under, the special Act shall not, without the written consent of the Attorney-General, be taken by any person other than the undertakers or a person aggrieved. [1997]

Inclusion of several sums in one complaint, etc.

88. Where two or more sums are claimed from any person as being due under the special Act, or under byelaws made thereunder, a complaint, summons or warrant may contain in the body thereof, or in a schedule thereto, all or any of the sums so claimed. [1998]

Appeals and applications to courts of summary jurisdiction

89.—(1) Where any enactment in the special Act provides—

- (a) for an appeal to a court of summary jurisdiction against a requirement, refusal or other decision of the undertakers ; or
- (b) for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction,

the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings. [1999]

(2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the undertakers' requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal. [2000]

(3) In any case where such an appeal lies, the document notifying to the person concerned the decision of the undertakers in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought. [2001]

Appeals to quarter sessions against decisions of justices

90. Where a person aggrieved by any order, determination or other decision of a court of summary jurisdiction under the special Act is not by any other enactment authorised to appeal to a court of quarter sessions, he may, subject to any express provisions in the special Act to the contrary, appeal to such a court. [2002]

Mode of reference to arbitration

91. In arbitrations under the special Act the reference shall, except where otherwise expressly provided, be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the Minister. [2003]

Liability of undertakers to pay compensation

92. In any case where no express provision with respect to compensation is made by the special Act, the undertakers shall pay to the owners and occupiers of, and all other persons interested in, any lands or streams taken or used for the purposes of that Act, or injuriously affected by the construction or maintenance of the works thereby authorised or otherwise by the execution of the powers thereby conferred, compensation for the value of the lands or streams so taken or used and for all damage sustained by those owners, occupiers and other persons by reason of the exercise as to those lands and streams of the powers conferred on the undertakers by the special Act, or any Act incorporated therewith.

The amount of such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement. [2004]

This section partly replaces ss. 6, 12 of the Waterworks Clauses Act, 1847.

Protection for works of navigation authorities and for catchment boards and railways

93.—(1) Subject to the provisions of this section and to any provisions of the special Act empowering the undertakers to execute works specified therein, or to abstract water, nothing in the special Act shall authorise the undertakers without the consent of the navigation authority concerned—

- (a) to interfere with any river, canal, dock, harbour, basin, lock or reservoir so as injuriously to affect navigation thereon or the use thereof or the access thereto, or to interfere with any towing path, so as to interrupt the traffic thereon ;
- (b) to interfere with any bridge crossing any river, canal, dock, harbour or basin ;
- (c) to execute any works in, across or under any dock, harbour, basin, wharf, quay or lock, or any land which belongs to a navigation authority and is held or used by them for the purposes of their undertaking ;

- (d) to execute any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir, or towing path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof;

or without the consent of the catchment board to execute any works which will interfere with the exercise by a catchment board of their functions under any enactment, or without the consent of the railway company concerned, to execute any works along, across or under any railway of a railway company :

Provided that consent under this section shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld, either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers. [2005]

(2) Upon an arbitration under this section, the arbitrator shall determine—

- (a) whether any works which the undertakers propose to execute are such works as under the last foregoing subsection they are not entitled to execute without consent ; and
- (b) if they are such works, whether the injury, if any, to the navigation authority, catchment board or railway company will be of such a nature as to admit of being fully compensated by money ; and
- (c) if the works are of such a nature, the conditions, including conditions of a financial character with respect to the payment of compensation, future liabilities and otherwise, subject to which—
 - (i) the navigation authority, catchment board or railway company shall, if they so elect, carry out the works on behalf of the undertakers ; or
 - (ii) in default of such election, the undertakers may themselves carry out the works.

If the arbitrator should determine that the proposed works are such works as the undertakers are not entitled to execute without consent and that the works would cause injury to the navigation authority, catchment board or railway company of such a nature as not to admit of being fully compensated by money, the undertakers shall not proceed to execute the works, but in any other case they may execute the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator may have determined. [2006]

(3) For the purposes of this section, a navigation authority shall be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir towing path, wharf, quay or land if it belongs to them and forms part of their undertaking, or if they have statutory rights of navigation on or using it, or of demanding tolls or dues in respect of navigation thereon or the use thereof. [2007]

(4) Nothing in this section shall be construed as limiting the powers of the undertakers under the special Act in respect of the opening and breaking up of streets and bridges. [2008]

Copies of special Acts to be kept by undertakers in their office, and deposited with certain officers

94.—(1) The undertakers shall at all times after the expiration of six months from the date on which the special Act was passed or made, keep at their principal office a copy thereof printed by the printers to His Majesty, and shall also within the said six months deposit such a copy with the clerk of the council of every county and town clerk of every county borough within which they supply, or propose to supply, water, or have, or propose to construct, any waterworks. [2009]

(2) If the undertakers fail to comply with any of the provisions of this section, they shall be liable to a fine not exceeding twenty pounds and to a further fine not exceeding five pounds for each day during which such a copy is not so kept or has not been so deposited. [2010]

FOURTH SCHEDULE

Sections 31, 40

AMENDMENTS OF THE PUBLIC HEALTH ACT, 1936

In section one hundred and sixteen, for the reference to the Supply of Water in Bulk Act, 1934, there shall be substituted a reference to section twelve of this Act and subsections (4) and (6) of the said section one hundred and sixteen shall cease to have effect.

For section one hundred and twenty there shall be substituted the following section :—

“ Incorporation of certain provisions of Water Act, 1945

120. For the purpose of enabling a local authority to supply water under this Act, there shall be incorporated with this Act the following provisions of the Third Schedule to the Water Act, 1945, that is to say—

Section twenty-one of Part V,
 Section thirty of Part VII,
 Part X (Laying and maintenance of supply pipes and communication pipes),
 Part XI (Stopcocks),
 Sections fifty-three and fifty-five of Part XII,
 Part XIII (Provisions for preventing waste, etc., of water and as to meters and other fittings),
 Part XIV (Pollution of water by manufacture, etc., of gas),
 Sections seventy-nine and eighty of Part XVI.”

Section one hundred and twenty-one shall cease to have effect.

In the proviso to subsection (3) of section one hundred and twenty-seven the words “ can be drawn off into a receptacle at one point only and ” shall be omitted.

Sections one hundred and thirty, one hundred and thirty-two, one hundred and thirty-three and one hundred and thirty-five shall cease to have effect.

In section one hundred and thirty-six for the words “ material degree ” there shall be substituted the words “ degree exceeding five per cent.”

In subsection (4) of section one hundred and thirty-eight after the words “ section thirty-five of the Waterworks Clauses Act, 1847 ” there shall be inserted the words “ or section twenty-nine of the Third Schedule to the Water Act, 1945, whichever applies for the time being to the undertakers ”.

Section one hundred and thirty-nine shall cease to have effect.

In section one hundred and forty-two the definition of “ water fittings ” shall be omitted.

In section two hundred and seventy-five, for the words “ drain or communication pipe for water ” there shall be substituted the words “ or drain ”.

For subsection (1) of section two hundred and seventy-nine there shall be substituted the following subsection :—

“ General provisions as to breaking open streets

279.—(1) For the purposes of any section of this Act which confers powers on local authorities to construct, lay or maintain sewers, drains or pipes, the provisions of Part VI of the Third Schedule to the Water Act, 1945, shall be incorporated with this Act, subject, however, to such adaptations as may be necessary to make those provisions applicable to the construction and maintenance of sewers and drains as well as to the laying and maintenance of water mains and pipes.”

In subsection (2) of the said section the words “ and modifications ” shall be omitted, and for the words “ drain or pipe ” there shall be substituted the words “ or drain.”

Sections two hundred and eighty and two hundred and eighty-one shall cease to have effect. [2011]

FIFTH SCHEDULE

Section 62

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
8 & 9 Vict. c. 16.	The Companies Clauses Consolidation Act, 1845.	Section one hundred and twenty-two, in relation to water companies.
10 & 11 Vict. c. 17.	The Waterworks Clauses Act, 1847 ..	The whole Act.
26 & 27 Vict. c. 93.	The Waterworks Clauses Act, 1863 ..	The whole Act.
33 & 34 Vict. c. 70.	The Gas and Water Works Facilities Act, 1870.	The whole Act, so far as it relates to water.
36 & 37 Vict. c. 89.	The Gas and Water Works Facilities Act, 1870, Amendment Act, 1873.	The whole Act, so far as it relates to water.
38 & 39 Vict. c. 55.	The Public Health Act, 1875	Section three hundred and three so far as it applies to any local enactment relating to water supply.
50 & 51 Vict. c. 21.	The Water Companies (Regulation of Powers) Act, 1887.	The whole Act.
11 & 12 Geo. 5, c. 44.	The Water Undertakings (Modification of Charges) Act, 1921.	The whole Act.
24 & 25 Geo. 5, c. 15.	The Supply of Water in Bulk Act, 1934	The whole Act.
26 Geo. 5, & 1 Edw. 8, c. 49.	The Public Health Act, 1936	Subsections (4) and (6) of section one hundred and sixteen ; sections one hundred and twenty-one, one hundred and thirty, one hundred and thirty-two, one hundred and thirty-three, one hundred and thirty-five, one hundred and thirty-nine, two hundred and eighty and two hundred and eighty-one.
7 & 8 Geo. 6, c. 16.	The Rural Water Supplies and Sewerage Act, 1944.	Section three, in section four the words "with the supply of water in or" and section five.

WATER ACT, 1945

TABLE OF COMPARISON

These tables show the sections in earlier general Acts replaced by sections of the Water Act, 1945, and also (in column 3) the comparable clauses in the "Draft of a Water Undertakings Bill" (Cmd. 5987) prepared by the Central Advisory Water Committee. Notes on the origin of the clauses in this Draft Bill will be found in the Second Report of the Committee (Cmd. 5986).

The following abbreviations have been used :—

1847 = Waterworks Clauses Act, 1847.

1863 = Waterworks Clauses Act, 1863.

1870 = Gas and Waterworks Facilities Act, 1870.

1873 = Gas and Waterworks Facilities Act, 1870, Amendment Act, 1873.

1875 = Public Health Act, 1875.

1887 = Water Companies (Regulation of Powers) Act, 1887.

1921 = Water Undertakings (Modification of Charges) Act, 1921.

1934 = Supply of Water in Bulk Act, 1934.

1936 = Public Health Act, 1936.

1944 = Rural Water Supplies and Sewerage Act, 1944.

"Sch." followed by a number means the clause of that number in the 1st Schedule of the Draft of a Water Undertakings Bill.

Provision in Water Act (1)	Earlier enactment (2)	Clause in Draft Bill (3)
Section :—		
1-8	—	—
9, 10	1870, s. 3	—
	1936, s. 116 (6)	—
11	—	3
12	1934—whole Act	2
13	1944, s. 4	—
14	—	—
15	—	10
16	—	—
17	1936, s. 132	Sch. 64
18	1847, s. 61	9 & 12
19	—	12
20-21	—	—
22	—	11
23	1870, s. 3	1
24	—	14 & Sch. 9 & 12
25	—	Sch. 13
26	—	—
27	—	5
28	1936, s. 111 (amended)	—
	1944, s. 3.	—
29	1936, s. 137 (amended)	—
30	1936, s. 138 (amended)	—
	1936, s. 139.	—
31	—	20
32	—	19
33	1875, s. 303	—
34	—	13
35	1863, s. 14	Sch. 66

Provision in Water Act (1)	Earlier enactment (2)	Clause in Draft Bill (3)
Section :—		
36	1944, s. 5	4
37	—	—
38	1847, s. 68 & 74.. ..	6
	1863, s. 21	
	1887, s. 4 & 5	
39	—	7
40	1921, s. 1	8
41	—	15
42	1847, s. 83	Sch. 83
43-45	—	—
46	—	16
47	—	—
48	—	Sch. 90
49	—	17
50	1873, s. 12	1 (8)
	1875, s. 297	
51-53	—	—
54	—	Sch. 86
55	—	Sch. 87
56	—	Sch. 89
57	—	Sch. 88
58	—	Sch. 100
59	—	18
60 & 61	—	—
62	—	21
63	—	22
1st Schedule :—		
Pts. I & II	—	1
Pt. III	—	2
Pt. IV	—	12 also Sch. 64
Pt. V	—	8
2nd Schedule		
3rd Schedule :—		
1	—	1st Schedule :— 1
2	1847, s. 11	3
3	—	4
4	1847, s. 12	5
5	—	6
6	1847, s. 13	7
7	—	8
8	—	10
9	—	11
10	—	14
11-18	1847, s. 18-27	15-22
19	1847, s. 28 and 29	23
20	—	24
21	1847, s. 28 and 29	25
22	1847, s. 28	26
23 & 24	1847, s. 30 & 31.. ..	27 & 28
25	1936, s. 280 & 281	29
26	1847, s. 32	30
27	1847, s. 33 & 34.. ..	31
28	—	—
29	1847, s. 35 & 36.. ..	32
30	1847, s. 35 & 43.. ..	33
31	1847, s. 35	34
32-38	1847, s. 37-43	35-41
39	1847, s. 35 & 43.. ..	42

Provision in Water Act (1)	Earlier enactment (2)	Clause in Draft Bill (3)
3rd Schedule :—		
40 & 41	1847, s. 48 & 49.. ..	43 & 44
42	—	46
43	—	45
44 & 45	—	47 & 48
46	1847, s. 68	49
47-52	—	50-55
53	1847, s. 69	56
54	1847, s. 72	57
55	1847, s. 70 and 71	58
	1936, s. 130	
56-59	—	59-62
60	1847, s. 54-56	65
61	1936, s. 133	67
62	1847, s. 57	—
63	—	69
64	1863, s. 17	68
65	1847, s. 58 & 59.. ..	—
	1836, s. 18 & 20.. ..	70
66	1936, s. 135	71
67	1847, s. 60	72
68	1863, s. 19	73
69	—	74
70	—	75
71-73	1847, s. 62-67	76-78
74	1847, s. 75	79
75	—	—
76	1847, s. 76-79	80
77 & 78	—	81-82
79 & 80	—	—
81	—	85
82	1863, s. 15	90
83 & 84	—	91-92
85	1847, s. 85	93
86-91	—	94-99
92	1847, s. 6 & 12	101
93	—	—
94	1847, s. 90-91	102
4th Schedule	—	2nd Schedule
5th Schedule	—	3rd Schedule

[2113]

ORDERS, CIRCULARS AND MEMORANDA

THE RESERVOIRS REGULATIONS, 1945

S. R. & O., 1945, No. 647

May 31, 1945

In pursuance of the powers conferred upon us by the Reservoirs (Safety Provisions) Act, 1930, and the Reorganisation of Offices (Scotland) Act, 1939, we hereby make the following Regulations :—

1. The Reservoirs Regulations, 1942 (which amended the Regulations made under the Reservoirs (Safety Provisions) Act, 1930, on the 29th day of December, 1930, in regard to the form of the notices required to be published under sections 2 and 4 of the said Act), are hereby revoked, and the said Regulations made on the 29th day of December, 1930, shall have effect as if the said Reservoirs Regulations, 1942, had not been made. [2114]

2. These Regulations may be cited as the Reservoirs Regulations, 1945, and shall come into force on the 2nd day of July, 1945. [2115]

* * * * *

THE WATER (COMPULSORY PURCHASE) REGULATIONS, 1945

S. R. & O., 1945, No. 1244

September 29, 1945

The Minister of Health in pursuance of the powers conferred on him by section 51 of the Water Act, 1945 (in these regulations called "the Act"), and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Water (Compulsory Purchase) Regulations, 1945, and shall come into operation on the first day of October, 1945. [2116]

2. The forms set out in the schedule hereto or forms substantially to the like effect shall be the forms to be used by local authorities or statutory water undertakers under the Second Schedule to the Act in the cases to which those forms are applicable :

Provided that in the case of a purchase in pursuance of section 7 of the Third Schedule to the Act the said forms shall be used with such adaptations as may be necessary. [2117]

SCHEDULE

FORM No. 1

Form of Compulsory Purchase Order made by Local Authority or Statutory Water Undertakers under Section 24 of the Water Act, 1945

Water Act, 1945

The 1.....hereby make the following Order :—

1. Subject to the provisions of this Order the above-named [Council] [Board] [Company] are hereby authorised to purchase compulsorily for the purpose of 2.....the land which is described in the Schedule hereto, and is coloured red on a map marked 3.....and sealed with the common seal of the [Council] [Board] [Company] and deposited at the offices of the [Council] [Board] [Company].
2. Subject to the modifications set out in article 3 of this Order and to any necessary adaptations the provisions of—
 - (a) the Lands Clauses Acts (except sections 127 to 132 of the Lands Clauses Consolidation Act, 1845) ;
 - (b) 4 the Acquisition of Land (Assessment of Compensation) Act, 1919, and Part II of the Town and County Planning Act, 1944 ;
 - (c) Part IV of the Third Schedule to the Water Act, 1945 ;
 are hereby incorporated in this Order, and the provisions of those enactments shall apply accordingly.

3. The modifications subject to which the Lands Clauses Acts [and the Acquisition of Land (Assessment of Compensation) Act, 1919 ⁴] are incorporated in this Order are as follows :—

- (a) the arbitrator shall not take into account any building erected or any improvement or alteration made or any interest in land created after the date on which notice of this Order having been made is published in accordance with the provisions of the Second Schedule to the Water Act, 1945, if, in the opinion of the arbitrator, the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining or increasing compensation ;
- (b) the sums agreed upon or awarded for the purchase of the lands described in the Schedule to this Order, if glebe land or other land belonging to an ecclesiastical benefice, or to be paid by way of compensation for damage to be sustained by the owner by reason of severance or injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners, to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

4. This Order may be cited as the ⁵.....(Compulsory Purchase) Order....., 19.....

The Schedule

Number on Map	Quantity, description, and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (other than tenants for a month or less than a month).

Given under the seal of the.....this.....day of.....
in the year nineteen hundred and.....

¹ Insert description of local authority or statutory water undertakers.

² Insert purpose for which land is required.

³ Insert short title of Order.

⁴ Omit, if the undertakers are a water company.

⁵ Insert title of Order.

FORM NO. 2

Form of Advertisement of the making of a Compulsory Purchase Order

Water Act, 1945

Notice is hereby given that the ¹.....in pursuance of the powers vested in them by section 24 of the Water Act, 1945, on the.....day of....., 19....., made a Compulsory Purchase Order which is about to be submitted to the Minister of Health for confirmation authorising them to purchase compulsorily for the purpose of ².....the land described in the Schedule hereto.

Copies of the Order and of the map referred to therein have been deposited at.....and may be seen at all reasonable hours.

Any objection to the Order must be made in writing and addressed to the Secretary, Ministry of Health, Whitehall, London, S.W.1,³ before the ⁴.....day of.....

Schedule

(Here insert description of lands comprised in the Order.)

Dated this.....day of....., 19.....

.....
Signature of Clerk or Secretary of Local Authority
or Statutory Water Undertakers.¹ Insert description of local authority or statutory water undertakers.² Insert purpose for which land is to be acquired.³ If the land is in Wales or Monmouthshire, substitute " the Chairman, Welsh Board of Health, Cathays Park, Cardiff."⁴ Insert date 28 clear days from publication of advertisement.

FORM NO. 3

*Form of Notice to Owners, Lessees and Occupiers of the making of a Compulsory Purchase Order**Water Act, 1945*

Take notice that the ¹.....in pursuance of the powers vested in them by section 24 of the Water Act, 1945, on the.....day of....., 19....., made a Compulsory Purchase Order which is about to be submitted to the Minister of Health for confirmation authorising them to purchase compulsorily for the purpose of ².....of land described in the Schedule hereto.

Copies of the Order and of the map referred to therein have been deposited atand may be seen at all reasonable hours.

Any objection to the Order must be made in writing and addressed to the Secretary, Ministry of Health, Whitehall, London, S.W.1, ³ before the ⁴.....day of.....

If no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, or if the Minister is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed, the Minister may, if he thinks fit, confirm the Order with or without modification. In any other case the Minister is required, before confirming the Order, to cause a local inquiry to be held and to consider any objection not withdrawn and the report of the person who held the inquiry. The Minister may then confirm the Order either with or without modification.

Schedule

(Here insert description of lands comprised in the Order.)

Dated this.....day of....., 19.....

.....
Signature of Clerk or Secretary of Local Authority
or Statutory Water Undertakers.¹ Insert description of local authority or statutory water undertakers.² Insert purpose for which land is to be acquired.³ If the land is in Wales or Monmouthshire, substitute " the Chairman, Welsh Board of Health, Cathays Park, Cardiff."⁴ Insert date 28 clear days from service of notice.

FORM NO. 4

*Form of Advertisement of Confirmed Compulsory Purchase Order**Water Act, 1945*

.....Order.

Notice is hereby given that the Minister of Health in pursuance of the powers vested in him by section 24 of, and the Second Schedule to, the Water Act, 1945, on the.....day of....., 19....., confirmed [with modifications] a Compulsory Purchase Order submitted to him by the ².....

The Order provides for the purchase for the purpose of ³.....
of the land described in the Schedule hereto.

Copies of the Order as confirmed and of the map referred to therein have been deposited at....., and may be seen at all reasonable hours.

The Order will become operative on the date of this advertisement, but if an application is made to the High Court within a period of six weeks from that date by an aggrieved person desirous of questioning the validity of the Order, the Court may by interim order suspend the Order, either generally or as respects any property of the applicant and may, if satisfied that the Order is invalid or that the interests of the applicant have been substantially prejudiced by any requirement of the Act not having been complied with, quash the Order either generally or in so far as it affects any property of the applicant.

Schedule

(Here insert description of lands comprised in the Order.)

Dated this.....day of....., 19.....

.....
Signature of Clerk or Secretary of Local Authority
or Statutory Water Undertakers.

[2118]

¹ Insert short title of Order.

² Insert description of local authority or statutory water undertakers.

³ Insert purpose for which the land is to be acquired.

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INDEX

ACCOUNTS,

- Building Materials and Housing Fund, of, preparation of, 218, 220, 221
- Forestry Commissioners, preparation by, 359
- licensing planning committees, of, audit of, 309
- water undertakers, of, 563-564

ACQUISITION OF LAND. *See* COMPULSORY PURCHASE OF LAND.

ABSENT VOTERS,

- list of, electoral registration regulations as to, 102, 103
- proxies for, electoral regulation, regulations as to, 102, 103
- voting by post as proxy for Service voters, 103, 104

ACCIDENTS,

- air-raid shelters, in, liability for, 7, 8

AGRICULTURAL LAND,

- compulsory purchase of, 257

AGRICULTURE,

- Defence (Agriculture and Fisheries) Regulations, 1939, provisions of, 2

AIR RAID FIRE PRECAUTIONS SCHEMES,

- local authorities which must prepare, 4

AIR RAID GENERAL PRECAUTIONS SCHEME,

- local authorities which must prepare, 4

AIR RAID PRECAUTIONS,

- Civil Defence (Suspension of Powers) Act, 1945, provisions of, 3-6
- local authorities, suspension of obligations of, 3, 4
- schemes, kinds of, 4
 - preparation of, suspension of obligations as to, 3, 4
- suspension of powers respecting, provisions for, 3-5

AIR RAID SHELTER,

- accident in, liability, 7, 8
- highway, on, unlit, liability for accidents, 197, 198
- negligence in, management of, 7, 8

ALDERMEN,

- casual vacancy, filling, 38
- election of, extension of time for acceptance of office, 71, 72
 - resumption of, 32, 37, 42
 - supplementary provisions Order as to, 131
- wartime, retirement of, 32
 - supplementary provisions, Order as to, 129, 130

ALLOTMENT

- field garden, meaning of, 289, 290
- fuel, meaning of, 289, 290

ALLOWANCES,

- auxiliary policewoman, to, 389, 390, 391
- British police forces in areas of occupation, provisions as to, 366
- police, 366, 376, 377, 389, 390, 391

ALLOCATION OF AREAS,

- local authorities, of, 10-19
 - former position, 10
 - local inquiries on, 17, 18
 - Minister, regulations of, as to, 16-19
 - government Boundary Commission, by, 11, 19
 - notice of, 17
 - inquiries on, 14, 17, 18
- non-county borough, in, 12
- rural district, in, 12
- urban district, in, 12

ANNUAL REGISTER,

- contents of, 32, 33, 47
- duration of, 33
- electoral registration regulations as to, 100—102, 117—119
- forms for, 111—114
- marking of names in, 101
- numbering and corrections in, 100
- preparation of, 45, 47, 100—102
- proxy application form, 112, 113
 - appointment, cancellation of, form for, 113
- publication of, 33, 100—102
 - time table for, 118
- purpose of, 45
- registration in, temporary provisions as to, 75, 78
- sale of copies of, 102, 119
- the relevant date, meaning of, 47

APPEAL,

- auxiliary policewoman, by, 387, 388
 - form of notice of, 395, 396
 - respondent defined for purpose of, 398
 - tribunal defined for purpose of, 398
 - proceedings before a, 396, 397
- compensation for war-damaged land, respecting, 502, 506—508
 - form of notice of, 508, 509
 - of officer of local authority on war service re-employed, in case of, [350]
- compulsory purchase order, against, Forestry Act, 1945, under, 362
 - water, in connection with, 578
- electors lists, respecting, 101
- local housing authority, from, 228
- police war reservist, by, 377, 378
 - form of notice of, 381, 382
 - respondent defined for purpose of, 383
 - tribunal defined for purpose of, 383
 - proceedings before a, 383, 384
- registration officer, from, 33, 50, 51, 76, 85, 86, 101
- valuation list, respecting amendment of, jurisdiction of quarter sessions to [entertain, 416—418]
- water undertakers, from, 611

APPROVED SCHOOL,

- contributions to, local authority, by, 233
- definition of, 450

ARBITRATOR,

- compensation for war-damaged land, in respect of, 503, 507, 508
 - decision of, form of, 510

AREA,

- alteration of. *See* ALTERATION OF AREAS.
- review of, local government Boundary Commission, by, 12

AREAS OF OCCUPATION,

- British police forces, in, 365, 366
 - allowances, provision for, 366
 - composition of, 365
 - government and discipline of, 366
 - gratuities, provision for, 366
 - maintenance of, 365, 366
 - pensions, provision for, 366
 - purpose of, 365
- Home Police forces serving in, special provisions as to, 366, 377

AUDIT,

- accounts of licensing planning committees, of, 309

AUDITORS,

- election of, County and Borough Election Forms Regulations, 1945, provisions [of, 141, 142
- suspension and resumption of, 33, 40

AUXILIARY POLICEWOMEN,

- appeals by. *See* APPEAL.
- appointment of, 384
- Class A, 385—388
 - absence without leave, 394
 - allowances, 389, 390
 - appeals by, 387
 - form of notice of, 395, 396
 - tribunal, proceedings before a, 396, 397
 - appointment and transfer of, 385
 - breach of confidence by, 393, 394
 - caution to, effect of, 387
 - Class B, transfer to, 385
 - corrupt practices by, 394
 - damage to clothing or articles supplied to, 394
 - deduction of benefits from pay, 389
 - discharge of, 391
 - discipline, 385—387
 - discreditable conduct by, 393
 - disobedience to orders, 393
 - drunkenness, 394
 - duty, drinking on, 394
 - entering licensed premises, etc., while on, 395
 - late for, 394
 - periods of, 389
 - equipment for, 391
 - falsehood by, 393
 - finer, restriction on, 387
 - insubordinate conduct by, 393
 - leave, 389
 - increase of, 408
 - malingerer by, 394
 - neglect of duty by, 393
 - offences against discipline by, code of, 393—395
 - procedure, 385—387
 - punishment, 387
 - offensive conduct by, 393
 - overtime rates for, 408
 - pay, 385
 - pensions, rules as to, 391, 392
 - personal records of, 390
 - prevarication by, 393
 - promotion, 385
 - punishment of, entry of, 387
 - reduction in pay, limitation on, 387
 - retirement of, certificate on, 390, 408
 - service of, reckoning for promotion, etc., 392
 - scale of pay for, 408
 - soliciting drink, 394
 - suspension of, 386, 387
 - uncleanliness by, 394
 - unlawful or unnecessary exercise of authority by, 394
- Class B, 385, 388, 389
 - allowances, 389, 390
 - appointment of, 388
 - deduction of benefits from pay, 389
 - discharge of, 391
 - duty, periods of, 389

AUXILIARY POLICEWOMEN—continued

- Class B, equipment for, 391
 - leave, 389
 - increase of, 408
 - overtime rates for, 408
 - pensions, rules as to, 391, 392
 - personal records of, 390
 - promotion and pay of, 388, 389
 - retirement of, certificate on, 390, 408
 - service of, reckoning for leave and pay, 392
 - whole-time paid service, meaning of, 392
- Class C, 385
 - allowances, 391
 - equipment for, 391
 - pensions, rules as to, 391, 392
 - promotion of, 391
- duties of, 384
- employment, continuation in, order revoking, 398, 399
- offences against discipline by, misconduct form for, 385
- Police (Women) Regulations, meaning of, 392
- service of, consideration of, 405, 406
- temporary constables, pension rights of, 368
- Workmen's Compensation, exclusion from, 368

BATHS AND WASHHOUSES,

- water supply for, 594

BICYCLES,

- rear lamps, cesser of exemption from obligation to carry, 420
- red reflectors, necessity to carry, 420, 421
- stationary, lights, temporary relaxation of obligation to carry, 421
- white surfaces, necessity to exhibit, 420, 421

BILLS OF QUANTITIES,

- housing work, for, circular respecting, 230, 231

BIRTHS,

- registration of, expenses of, temporary provisions as to, 60, 61

BOARD OF TRADE,

- building undertakings, grant of general licence to, 19, 20
- civil engineering undertakings, grant of general licence to, 19, 20
- compulsory acquisition of land, powers in case of, 287
- derelict land in development areas, provisions as to, 145, 148
- factories, erection of, 145

BOMB DAMAGE REPAIR WORKERS,

- transport of, 412

BOROUGH,

- aldermen, election of, resumption of, 32, 37
 - wartime, retirement of, 32
 - supplementary provisions Order as to, 129, 130
- auditors, election of, suspension and resumption of, 33, 40
- councillors, casual vacancy, filling, 37, 39
 - election of, County and Borough Election Forms Regulations,
 - [provisions of, 141, 142]
 - resumption of, 32, 37
 - wartime, retirement of, 32
 - supplementary provisions order as to, 127, 129
- county borough, constitution as, requirements, 11, 12, 14

BOROUGH COUNCIL,

air raid fire precautions scheme, duty to prepare, 4
elections, electoral registration, regulations as to, 139, 140

BORROWING POWERS,

local authority, of, 158, 160
monies, forming part of capital funds, use of, 163
restrictions on, 158, 160, 169—171, 173

BOUNDARIES,

alteration of, 12

BRITISH POLICE FORCES,

areas of occupation, in, allowances to, 366
home police forces serving in, provisions as to, 366, 367
maintenance of, 365, 366
special provisions as to, 366, 367

BUILDING,

hours of employment direction, provisions of, 20, 21
industrial. *See* INDUSTRIAL BUILDING.
licence. *See* LICENCE.
materials, advances for, provisions for, 218, 219, 220
 definition of, 225
 Minister of Works, advances to, for, 218, 219, 220
undertaking, definitions of, 20
 general licence to, grant of, 19, 20
 hours of employment direction to, 20, 21

BUILDING MATERIALS AND HOUSING FUND,

accounts of, preparation of, 218, 220, 221
closure of,
 control and management of, 218, 220
 payments into, 218, 221
 settlement of, funds on, 221, 222
 supplementary provisions on, 218, 221, 222

BUILDINGS AND STRUCTURES,

construction of terms, 250

BURIAL AND CREMATION,

Order in Council amending regulations as to, 25
Welsh Church (Burial Grounds) Act, 1945, provisions of, 21—24
 appointed day, definition of, 24
 maintenance of, 23, 24
 representative body, definition of, 24
 transferred, 23
 untransferred, 22, 23

BUSINESS PREMISES,

applications, notice as to, 118
 forms for, 119
 ratepayers' register applications, allowed as, 119
 service voters, by, 33, 48, 49
 on behalf of, 49, 50, 119
register, application for registration, form of, 118, 122, 123
 notice as to, 12
 modifications as to, 48, 49, 79
Northern Ireland, in, service applications for registration in, 101
proxy form, 113
registration in. *See* REGISTRATION.
service voters on, provisions for, 48, 49
war workers, registration in, 98

BYE-LAWS,

water undertakers, by, procedure for confirming, 575, 576

CABLE,

- highway, on, retention by Minister of War Transport, 238, 259, 260
 - application to High Court respecting, 238, 262, 263
 - Orders, duration of power to make, 263
 - publication of, 238, 260, 261
 - validity and operation of, 238, 262, 623
 - temporary continuance of, 263, 264
 - War Works Commission, reference to, 238, 260, 261
 - proceedings after, 238, 261, 262

CANCERS,

- Ministry of Health circulars as to, 30—51

CASUAL VACANCY,

- wartime, filling, aldermen, in case of, 38
- councillors, in case of, 37, 38, 39, 43
- councilmen, in case of, 41, 42

CATCHMENT AREA,

- meaning of, 569, 581

CATCHMENT BOARD,

- meaning of, 569, 581
- protection of works of, 611, 612

CENSUS,

- National Register, amendment regulations as to, 26—29
 - notice of change of address, 26, 27

CENTRAL ADVISORY WATER COMMITTEE,

- appointment of, 527, 530

C.A.W.C.,

- purpose of, 527, 530

CERTIFIED INSTITUTION,

- definition of, 441

CHAIRMAN,

- election of, extension of time for acceptance of office, 71, 72
- Joint Advisory Water Committee, of, appointment of, 531
- licensing planning committee, of, appointment of, 298, 304

CHAIRMAN OF WAYS AND MEANS,

- defined in connection with Statutory Orders, 433

CHARGES,

- water, discount for prompt payment of, 601
 - power to revise, 561, 562
 - recovery of, 602

CHEQUE,

- gas fund contribution, payment by, 193

CHIEF REGIONAL FIRE OFFICER,

- definition of, 182
- vacancy in post of, filling, 182

CHURCH OF ENGLAND,

- disestablishment of, Wales, in, 21

CISTERNS,

- power to require, 602

CITY OF LONDON,

- councilmen, casual vacancy, filling, 41, 42
 - election of, resumption of, 32
 - postponement of, 41, 42
- wartime, retirement of, 32

CIVIL DEFENCE,

- employment in, suspension of provisions as to, 6, 7
- functions, transfer of, 7
- offences in relation to, suspension of provisions as to, 6, 7

CIVIL DEFENCE—*continued*

- Orders in Council as to, 3—5
- period of suspension, definition of, 6
- reserve, recall to, suspension of, 7
- schemes, suspension and revival of, 3, 4—6

CIVIL ENGINEERING,

- contracting undertaking, definition of, 10
- general licence to, grant of, 19, 20
- hours of employment direction for, 20, 21

CIVILIAN RESIDENCE REGISTER,

- modifications as to, 47—49
- postal voting by persons on, 76, 82, 83
- proxy form, 113
- registration in, provisions for, 66, 67
- use of, 74
- war workers, registration in, 98

CLEARANCE AREA,

- compulsory purchase order, jurisdiction to review, 232

COMMITTEE,

- Central Advisory Water. *See* CENTRAL ADVISORY WATER COMMITTEE.
- Joint Advisory Water. *See* JOINT ADVISORY WATER COMMITTEE.
- Licensing Planning. *See* LICENSING PLANNING COMMITTEE.

COMMON,

- compulsory purchase of, overriding provisions as to, 256
- definition of, 288

COMMON SEAL,

- Local Government Boundary Commission, of, 15

COMPENSATION,

- charges in, functions of local authorities due to war service, for, 342—351
- compulsory acquisition of land, on, 277—280
 - adjustment of, 277—280
 - assessment of, rules for, 240
 - diminution in value, in case of, 237, 248
 - elimination of value due to government war work, 278—280
 - fixed machinery or plant, for removal of, 282, 283
 - forfeitures, 280
 - increase of rental compensation, 281
 - lump sum, 283, 284
 - reservation of rights, effect of, 282
 - successive works, in case of, 283
 - war-damaged land, rules for, 499—510
 - work done on land defined for purpose of, 284
- easements, on acquisition of, 277
 - rules for assessment of, 240, 279
- officers of local authorities on war service, of, 343—352
 - change in functions, in case of, 343, 344
 - appeal, right of, 350
 - assessment for loss of part-time appointment, 350
 - whole-time office, 349, 350
 - reduction of emoluments, 350
 - consideration of, 350
 - date commencing, 350
 - general considerations, 349
 - lump sum awarded, 349
 - procedure for claiming, 348, 349
 - suspension of, 350, 351

COMPENSATION—continued

- officers of public authorities on war service, of, Order in Council to provide for, [345, 346
- water undertakers, of, 564, 565
- restrictive rights over land, on compulsory acquisition of, 237, 248, 277
- teachers, of, war service, on, re-employed at reduced salary, 344, 345
- telegraphic lines, in case of emergency, constructed, 238, 265, 266
- valuation for supplemental, regulations for, acquisition of land, in respect of, 471—474

COMPENSATION WATER,

- provisions as to, 586

COMPULSORY PURCHASE OF LAND,

- agricultural land, 257
- amendments as to procedure, 274, 275
- Board of Trade, provisions as to, 287
- common, meaning of, 288
 - overriding provisions as to, 256
- compensation on. *See* COMPENSATION.
- conditional recommendations by War Works Commission, 253, 254
- Defence Acts, application of, to, 273, 274
 - meaning of, 288
 - Regulations, meaning of, 289
- depreciated land, 247
- development areas, in, 145, 147
 - modifications as to, 157
- distribution of industry, in respect of, 151, 153—157
 - procedure for authorising, 153, 154
 - restrictions on, 155
 - Scotland, application to, 157
- drainage board, meaning of, 289
- duration of, 257, 258
- dwelling-house, meaning of, 289
- easement, meaning of, 290
- easements, acquisition of, 237, 247, 248
 - compensation on, 277
 - method of, 276
 - miscellaneous provisions, 276, 277
- emergency powers, meaning of, 289
- evidence, 288
- expenses, payment of, 288
- field garden allotment, meaning of, 289, 290
- Forestry Act, 1945, under, 353—363
 - Lands Clauses Acts, incorporation of, 361
 - orders, appeals against, 362
 - procedure for making, 361, 362
 - validity and operation of, 362
 - Railway Clauses Consolidation Act, incorporation of, [361
 - transfer of powers to appropriate Minister, 354, 356, 357
- fuel allotment, meaning of, 289, 290
- Government war use, land damaged by, 237, 244, 245
 - meaning of, 289
 - work, land affected by, 237, 244, 245
 - meaning of, 289
 - works constructed on land, in case of, 245—247
 - meaning of, 289
- land in lieu of land acquired under Defence Acts, provision of, 286
- local authorities, by, 239, 267—269
 - adoption of enactments, 272, 273
 - compensation, 272, 273
 - adjustment of, 277—280

COMPULSORY PURCHASE OF LAND—*continued*

- local authorities, by,
 - compulsory purchase Order, provisions as to, 268, 269
 - duration of powers, 271, 272
 - authority, meaning of, 289
 - planning authority, meaning of, 250, 289
- Minister, meaning of, 289
- money, consequences of undertakings to pay, 286, 287
- Northern Ireland, in, 294, 295
- notice of proposals for, 237, 240
 - to treat, 239, 269, 270
- objections to, reference of, 237, 249, 250
- open space, meaning of, 289
 - spaces, overriding provisions as to, 256
- particular levels only, power to acquire, 274
- principles on which War Works Commission to aid, 254—256
- restrictive rights, acquisition of, 237, 247, 248
 - compensation on, 277
 - method of, 276
 - miscellaneous provisions, 276, 277
- reversionary interests, power to acquire, 274
- saving for agreements, 284, 285
- Scotland, in, 291—294
- telegraphic line, meaning of, 265, 289
- war period, meaning of, 289
 - purposes, meaning of, 289
- War Works Commission, reference to, 248—251
 - report of, on, 251—253
- work done on land, meaning of, 284—289
- works, meaning of, 289

COMPULSORY PURCHASE ORDER,

- clearance area, in, jurisdiction to review, 232
- definition of, 512
- Forestry Act, 1945, under, appeal against, 362
 - procedure for making, 361, 362
 - validity and operation of, 362
- Town and Country Planning, for purposes of, 485—497
 - advertisement and personal notice of, forms of, 485—487, 488—491
 - application for, form of, 492, 494
 - personal notice of, form of, 492, 493, 495, 496
 - form of, 485, 487, 488
 - making of, personal notice of, form of, 493, 496, 497
 - representation by statutory undertaker with reference to, form of, 491
 - water, in connection with, 576—578
 - appeal from, 578
 - arbitrator, duty of, 577
 - confirmed, advertisement of, form of, 620, 621
 - date of operation, 578
 - form, contents and procedure, 576, 577, 618, 619
 - making of, advertisement of, form of, 619, 620
 - notice of, form of, 620
 - power to make, 549, 550
 - validity of, 578
- registration of, 513—515

CONDUCTOR,

- hackney carriage, of, extension of, licence of, 415
- licence for public service vehicle, extension of, 415

CONSTABLE,

- auxiliary service of, consideration of, 402
- leave of absence, period of, 401
- probationary period, dispensation of, 401

CONSTABLE—continued

scale of pay for, 370—373

special. *See* SPECIAL CONSTABLE.temporary. *See* TEMPORARY CONSTABLE.**CONSTABULARY,**

inspectors of, increase in number of, 364

CONSTITUENCY,

meaning of, 62, 90

CONTRIBUTORY SERVICE,

definition of, 439, 440, 450

youth service treated as, 440

COST OF LIVING BONUS,

National Joint Council, in respect of, 176, 177

staffs of local authorities, to, 176—179

admissibility for purpose of grant or reimbursement, 176, 177

civil service scales, 176, 177

National Joint Council Scales, 178, 179

COUNCILLORS,

annual election of one-third of, resumption of, 38—40

casual vacancy, filling, 37, 39, 43

election of, County and Borough Election Forms Regulations, 1945, provisions
[of, 141, 142]

extension of time for acceptance of office, 71, 72

resumption of, 32, 37

supplementary provisions Order as to, 131

Rural District Councillors Election Rules, 1945, provisions of, 143

Urban District Councillors Election Rules, 1945, provisions of, 142

meaning of, Scotland, in, 74

wartime, retirement of, 32, 38—40

supplementary provisions Order as to, 127—129

COUNTY,

aldermen, election of, resumption of, 32, 37

wartime, retirement of, 32

boundaries, alteration of, 12

councillors, casual vacancy, filling, 37, 39

election of, County and Borough Election Forms Regulations, 1945,
[provisions of, 141, 142]

extension of time for acceptance of office, 71, 72

resumption of, 32, 37

wartime, retirement of, 32

COUNTY BOROUGH,

air raid fire precautions scheme, duty to prepare, 4

general precautions scheme, duty to prepare, 4

borough constituted as, requirements, 11, 12, 14

boundaries, alteration of, 12

elections, electoral registration regulations as to, 139, 140

COUNTY DISTRICT,

boundaries, alteration of, 12

COW,

unlicensed shippen, slaughtered in, liability, 192, 193

DANGEROUS BUILDINGS,

demolition of, rubbish, what constitutes, 411

DEATH,

duties on land acquired by local authorities, relief from, 166, 167

registration of, expenses of, temporary provisions as to, 60, 61

war operations, in consequence of, regulations amending reports as to, 25

DEBTS,

evacuation area, in, recovery of, 144

DECLARATION,

residence, of, form of, 65, 114, 115

meaning of, 96

war workers', definition of, 90, 96

DECLARATORY ORDER,

definition of, 512

registration of, 513—515

DEFENCE PERMITS,

• conditions of, 413

variation of, 415

goods vehicles, in respect of, 413, 414

licences, in lieu of, 413

overprinted, 413

period of validity, 413

revocation of, 414

substituted vehicles, for, 413

suspension of, 414

use of, 413

DEMOLITION,

rubbish resulting from, what constitutes, 411

DENTAL BENEFIT COUNCIL,

composition of, 323

DEVELOPMENT AREAS,

acquisition of land in, 145, 147

basic services for, financial assistance for improvement of, 145, 147

buildings to comply with planning schemes, 148

compulsory purchase of land in, 145, 147, 157

derelict land in, provisions for dealing with, 145, 148

financial assistance in, 145, 147

industrial estate company, financial assistance to, 145, 147

meaning of, 145

number of, 146

premises for industrial undertakings in, provision of, 145, 147

provisions as to, 147—150

schedule of, 152, 153

alteration of, 146, 148

Scotland, in, 153

Scotland, provisions as to, 152

supplementary provisions, 151, 152

trading companies in, financial assistance to, 145, 147

DEVELOPMENT COMMISSIONERS,

constitution of, 358

DISCHARGE,

auxiliary policewoman, of, 391

DISEASES,

Minister of Health circulars as to, 29—31

DISTRICT

councillors, casual vacancy, filling, 37, 39

election of, extension of time for acceptance of office, 71, 72

resumption of, 32, 37

wartime, retirement of, 32

supplementary provisions Order as to, 128, 129

DOCUMENTS,

Local Government Boundary Commission, of, evidence, as, 16

DRAINAGE BOARD,

definition of, 289

purchase of land by, amendment of procedure in case of, 287

DRAINS,

water supply for cleansing, 594

DRIVERS,

licences for public service vehicles, extension of, 415

permits, 413

DRIVING LICENCE,

permit to drive public service vehicle, 415

public service vehicle, extension of, 415

DRUNKENNESS,

auxiliary policewoman, by, 394

police war reservist, by, 381

DWELLING HOUSE,

definition of, 289

EASEMENTS,

acquisition of, 237, 247, 248

compensation on, 240, 277, 279

method of, 276

Ministers, by, 276, 277

miscellaneous provisions, 276, 277

War Works Commission, reference to, 248, 249

notice to treat to acquire, 275

EDUCATION,

hospital and sanatoria patients, for, circular respecting, 207—209

EDUCATIONAL SERVICE,

persons not teachers serving in, superannuation of, 441, 442

EGGS,

wild birds, of, protection of, Kent, in, 10

Wallasey, in, 9

ELECTIONS,

acceptance of office, extension of time for, 71, 72

adaptation of enactments, 67, 68

addresses within the same area, 89

annual register. *See* ANNUAL REGISTER.business premises register. *See* BUSINESS PREMISES REGISTER.

City of London, in, postponement of, 41, 42

resumption of, 32

civilian residence register, modification as to, 47

constituency defined for purpose of, 62, 90

councillors, of, resumption of, 32, 37—40

Dominion defined for purpose of, 36, 37

double vote, provisions to prevent, 77, 87

election address, service voter, sending to, 108

electoral registration regulations defined for purpose of, 90

electors lists. *See* ELECTORS LIST.

expenses, claims for, extension of time for, 71

declarations as to, extension of time for, 71

payments by candidates, extension of time for, 71

return of, extension of time for, 71

general election, definition of, 62, 90

initiation of, 36

local government election, definition of, 90

electoral area defined for purpose of, 62, 90

meaning of, 73

Scotland, in, 74

London, in, resumption of, 32

ELECTIONS—continued

- member of the Forces defined for purpose of, 86, 37, 74, 90
- national registration regulations defined for purpose of, 90
- nomination, consent to, telegram, by, 71
- objections to claims, electoral registration regulations as to, 109, 110
- parliamentary, adjustment of statutory time limits in connection with, 51
 - annual register for. *See* ANNUAL REGISTER.
 - appointed day defined for purpose of, 59
 - civilian absent voters, extension of facilities for voting, 76, 82, [83]
 - proxies at, amendment of Act of 1943 as to, 57
 - electorate defined for purpose of, 59
 - May 1945 register for. *See* MAY 1945 REGISTER.
 - postal voting at, 48, 52, 53
 - extension of temporary provisions as to, 76, 84
 - proxy voting at, 48
 - redistribution of seats, amendments as to, 58, 59
 - register for, 33, 45, 46, 47
 - service voters' proxy to vote by post, extension of right of, 76, [83, 84]
 - spouses' qualification for, addition of, 32, 35, 36
- peer defined for purpose of, 117
- postal voting areas defined for purpose of, 58
 - electoral registration regulations as to, 106
- prescribed defined for purpose of, 58, 90
- qualifications for, notification of, 40, 41
- registers for. *See* REGISTER.
- resumption of, 31, 37—45
- Scotland, in, proxy voting by service voters at, 38
 - resumption of, 32, 42, 43
- seaman defined for purpose of, 73, 90, 91
- Service declaration. *See* SERVICE DECLARATION.
 - register. *See* SERVICE REGISTER.
 - voters. *See* SERVICE VOTERS.
- spouses qualification for, abolition of, 32, 35, 36
- supplementary orders as to, power to make, 44
- suspension of, 32, 37, 38
- triennial, resumption of, 32, 37—45
- university, constituency defined for purpose of, 62, 90
 - extension of persons who may be proxies for service voters at, 56, [57]
 - postal voting at, 33, 54, 55
 - electoral registration regulations for, 109
 - proxy voting by war workers, 99
 - saving for, 89
- votes, counting of, electoral registration regulations as to, 107, 108
- voting at, temporary provisions as to, 33, 52—58
- war worker. *See* WAR WORKERS.

ELECTORS,

- franchise, extension of, 31, 35
- qualification for registration, extension of, 32, 35
- registers of. *See* REGISTER.
- registration of, temporary provision as to, 33, 45—47, 75, 78

ELECTORS LISTS

- appeals respecting, 101
- business premises, notice as to claims and objections, 123, 124
- civilian residence, notice as to claims and objections, 123, 124
- numbering and corrections in, 100
- ratepayers, notice as to claims and objections, 123, 124

EMOLUMENTS,

- definition of, 346

EMPLOYMENT,

- building undertaking, in, hours of, direction as to, 20, 21
- civil defence engineering undertaking, in, hours of, direction as to, 20, 21
- in, suspension of, provisions as to, 6, 7

EQUIPMENT,

- auxiliary policewomen, for, 391
- police war reservist, for, 377

EVACUATION AREA,

- debts incurred in, recovery of, 144

EXPENSES,

- election. *See* ELECTIONS.
- Joint Advisory Water Committee, of, 531
- Licensing Planning Committee, of, 298
- Local Government Boundary Commission, of, 15

FACTORIES,

- Board of Trade, erection by, 145

FEE,

- compulsory purchase order, for registration of, 513
- declaratory order, for registration of, 513
- nursing agency, application for licence to carry on, for, 211, 212

FIELD GARDEN,

- allotment, definition of, 289, 290

FINANCIAL ASSISTANCE,

- development areas, in, 145, 147

FINES,

- auxiliary policewomen, on, restriction on, 387
- police war reservists, on, restriction on, 375

FIRE FORCE COMMANDER,

- definition of, 182

FIRE HYDRANTS,

- default as to, liability for, 594
- fixing and maintaining, cost of, liability for, 594
- duty as to, 593, 594
- placing of, 594
- removal of, cost of, liability for, 594

FIREMAN,

- offences by, pay, as affecting, 184
- part time, retaining fees to, 184
- police force, formerly in, extension of police pensions benefits to, 185
- offences as affecting pay, 184
- preservation of pensions regulations respecting, 179, [180]

FOOD,

- deposit on returnable package, 187
- package defined for purpose of, 187
- Preserves Order 1944, amendment of, 187
- sale of, label misleading, liability, 192
- samples, proceedings against manufacturer, procedure, 192
- regulations for taking, 190

FORESTRY,

- appropriate Minister, meaning of, 357, 360
- compulsory acquisition of certain land for, restrictions on, 358
- financial provisions, 358, 359

FORESTRY COMMISSION,

- duties of, 354
- establishment of, 353
- objects of, 353
- reconstitution of, 355

FORESTRY COMMISSIONERS,

- annual accounts and report of, 359
- appointment of, 355
- committees, appointment of, 354, 356
 - delegates of, functions to, 354, 356
- disqualification of, 355
- functions of, direction of, 354, 355
- number of, 355
- officers and servants, appointment and salary of, 355
 - pensions of, 359
- pensions of, 359
- power to acquire land, transfer to appropriate Minister, 354, 356, 357
- qualification of, 355
- salaries of, 355
 - payment of, 353
- term of office of, 355

FORESTRY FUND,

- establishment of, 354, 359
- payments into, 354, 359
 - out of, 353, 354, 356, 357, 358

FRANCHISE,

- extension of, 35

FRUIT CURD,

- sale by wholesale, deposit on returnable package, 187

FUEL,

- allotment, definition of, 289, 290
- motor, restriction on use of, order revoking, 422

GAS

- fund, contribution to, payment by cheque, 193

GENERAL ELECTION,

- definition of, 62, 90
- initiation of, 36

GOODS VEHICLES,

- consignment notes for use of, 414
- defence permits in respect of, 413, 414
- harvesting, use for, 415
- identity certificates, expiration of, effect of, 414

GOVERNMENT CONTROL,

- Order in Council amending regulations as to, 194

GOVERNMENT DEPARTMENT,

- death duties on land acquired by, relief from, 166, 167
- Electricity Commissioners, includes. 461

GOVERNMENT WAR USE,

- acquisition of land damaged by, 244, 245
- definition of, 289
- land damaged by, cost of rehabilitation in case of, 285, 286

GOVERNMENT WAR WORK

- acquisition of land affected by, 244, 245
 - on which constructed, 245—247
- compensation for injurious affection to land, 278—280
- definition of, 289
- land damaged by, cost of rehabilitation in case of, 285, 286

GOVERNMENT WAR WORKS,

- compensation for injurious affection to land, 278—280
- continuance in possession of land on which constructed, 239, 269, 270
- definition of, 289

GOVERNMENT WAR WORKS—continued

- land occupied by, notice to treat, 239, 270, 271
 - restoration of, 239, 270, 271
- maintenance and use of, 239, 269, 270
- removal of, 239, 270, 271

GRATUITIES,

- British police forces in areas of occupation, provisions as to, 366

HACKNEY CARRIAGE,

- conductor of, extension of licence of, 415

HARVESTING,

- goods vehicles, use of, for, 415

HERRING INDUSTRY BOARD,

- defence regulations as to, Order in Council amending, 2
- functions of, consent to exercise of, 2
- seal of, attestation of, 2

HERRING INDUSTRY ADVISORY COUNCIL,

- functions of, Order in Council devising, 2

HIGHWAY,

- meaning of, 461

HIGHWAYS,

- air raid shelters in, accidents when unlit, liability, 197, 198
- cables on. *See* CABLE.
- mains on. *See* MAINS.
- obstructions on, cases, 196—198
- passenger killed by contact with low bridge, liability, 196, 197
- pipes on. *See* PIPE.
- railway bridges over, headroom reduced, liability of highway authorities, 196
- railways on. *See* RAILWAY.
- stopping up or diversion of, 258—264
 - Minister of War Transport, by, 258, 259
 - application to High Court respecting, 238, 262, 263
 - Order, duration of power to make, 263
 - publication of, 238, 260, 261
 - validity and date of operation of, 238, 262, 263
 - War Works Commission, reference to, 238, 260, 261
 - proceedings after, 238, 261, 262
- temporary continuance of, 263, 264
- tramways on. *See* TRAMWAY.
- water supply for cleansing and watering, 594
- wires on. *See* WIRES.

HOME POLICE FORCE,

- appropriate authority defined for purpose of, 367
- definition of, 367
- overseas service, meaning of, 367
 - special provisions respecting, 366, 367

HOSEPIPES,

- control over use of, 527, 543

HOSPITALS,

- patients, education for, circular respecting, 207—209

HOURS OF DARKNESS,

- meaning of, 421
- speed limit during, emergency order as to, 422

HOUSE,

- definition of, 226
- letting, what constitutes, 226
- new, rent of, reduction on, 223—225

HOUSE—continued

- sale of, foreclosure by local authority, after, right to pay mortgagor profit on, [231]
 - what constitutes, 226
- two separately rated tenements, containing, notice to repair, validity of, 232
- water supply for, extension of duty to provide, 552

HOUSEHOLDER,

- registration of living accommodation by, 228, 229

HOUSES,

- financial assistance to acquire, etc., extension of powers of local authorities, 218, [222, 223]
- new, cost and purchase price of, limitation on, 218, 223—225

HOUSING,

- accommodation, definition of, 228
 - residential purposes, use other than for, consent to, 227
 - restriction on use of, 227
- living accommodation, registration of, householder, by, 228, 229
- permanent, programmes, 230
- temporary, financial assistance towards, power of local authorities, 218, 222, [223]
 - increase of sums available for defraying expenses, 218, 222
 - local authorities, extension of powers respecting, 218, 222, 223
 - use of open space during limited period for, 215—217
- work, bills of quantities for, circular respecting, 230, 231

HOUSING AUTHORITY,

- local, appeal from decision of, 228
- definition of, 228
 - Scotland, in, 228
- register of living accommodation, powers respecting, 228, 229

INCOME TAX,

- local authorities, deduction from interest payments by, 165

INDUSTRIAL BUILDING,

- definition of, 151
- proposal for election of, notification of, 146, 149, 150
 - exemption from, 146, 150

INDUSTRIAL ESTATE COMPANY,

- definition of, 152
- financial assistance to, 145, 147

INDUSTRIAL PREMISES,

- definition of, 151, 250

INDUSTRIAL PROCESS,

- definition of, 152

INDUSTRIAL UNDERTAKINGS,

- development areas, in, financial assistance to, 145, 147
- premises for, provision of, 145, 147

INDUSTRY,

- distribution of, 145—157
 - acquisition of land, modifications as to, 157
 - provisions as to, 151
 - Board of Trade, exercise of functions of, 151
 - compulsory purchase orders, 153—157
 - validity and operation of, 154, 155
 - disposal of land, provisions as to, 151
 - expenses and receipts, 151
 - general provisions as to, 149, 150
 - industrial undertaking defined for purpose of, 152
 - Lands Clauses Acts, modifications of, 156
 - service of notices, 151

INSPECTORS,

constabulary, of, increase in number of, 364

INTEREST,

loans, on, 159, 163

deduction from income tax, 165

long-term rate, 173

Treasury Minute as to, 172, 173

INTERIM DEVELOPMENT AUTHORITY,

defined in relation to land, 461

powers of, 466, 467

JAM,

loose, maximum prices for, 189

maximum prices for, 188, 189

sale by wholesale, deposit on returnable package, 187

JOINT ADVISORY WATER COMMITTEE,

chairman of, appointment of, 531

constitution of, 531

duties of, 527, 532

expenses of, 531

members of, appointment of, 531

JOINT WATER BOARDS,

formation of, 527, 534

local authorities, disputes with, reference of, 534

JUDGE,

water rate, liability for, no disqualification, 565

JURORS BOOK,

clerk of the council defined for purpose of, 87

county defined for purpose of, 87

preparation of, 76, 85

rating authority defined for purpose of, 87

regulations as to, approval of, 89

supplementary provisions as to, 76, 86, 87

temporary provisions as to, 76, 84—87

JUSTICE OF THE PEACE,

water rate, liability for, no disqualification, 569

KENT,

wild birds, protection of, in, 10

LAND,

derelict, development areas, in, provisions for dealing with, 145, 148

war damage to, compensation in case of compulsory purchase, 500—505

LANDS CLAUSES ACTS,

compulsory purchase orders, modifications respecting, 156

meaning of, 157

LEAVE OF ABSENCE,

auxiliary policewomen, for, 389—408

increase of, 408

reckoning of service for, 392

constable, for, periods of, 401

police inspector, for, period of, 401

sergeant, for, period of, 401

war reservist, for, 375, 407

policewoman, for, periods of, 404

LICENCE,

building, grant of, conditions attaching to, 224

local authority, duties of, respecting, 225

necessity for, 224

LICENCE—continued

- building, registration of conditions imposed by, 225
- restrictions respecting, 224
- defence permit in lieu of, 413
- driving. *See* DRIVING LICENCE.
- nursing agency, to carry on, 203—213
 - application for, 203
 - form of, 205, 206
 - fee for, 211, 212
 - licensing authorities, power of, 212
 - refusal of, notification of, 213
 - revocation of, notification of, 213
- public service vehicle, driver or conductor of, extension of, 415

LICENSING AUTHORITY,

- nursing agencies, for, delegation by, 212
- powers of, 212

LICENSING JUSTICES,

- licensing planning applications to, procedure and fees, 309
- committees, disqualification for, 305
- temporary premises removal, grant of, 297, 308

LICENSING PLANNING AREAS,

- abolition of, 296, 298
- applications to Licensing Justices, procedure and fees in connection with, 309
- compensation fund, suspension of provisions as to, 297, 302
- constitution of, 296
- establishment of, 297
- licensee, meaning of, 307
- London Committee, meaning of, 307
- Minister, meaning of, 306, 307
- new licences in, 297, 301
- registered owner, meaning of, 307
- removals in, 296, 300, 301
- surrender of licences in, 297, 302
- temporary premises, meaning of, 303
- variation of, 296, 298

LICENSING PLANNING COMMITTEE,

- accounts, audit and statements of estimated expenditure, 309
- appointment of, 298
 - London, in, 304
- chairman of, appointment of, 298, 304
- composition of, 296, 298
- duties of, 296, 299
- expenses of, 298
- general duties of, 296
- London, for, composition of, 304
 - sub-committees of, 304
 - procedure of, 309
- member of, appointment of, 297
- new licence, form of certificate whether or not objection to, 310
- planning proposals, form of notice of submission of, 310
 - objections to, 296, 299, 300
 - submission and approval of, 296, 299, 300
- procedure of, 307, 308
- regulations governing, 304, 305
- secretary of, 296, 298
- submission of proposals to Minister, 307, 308
- temporary premises certificate, endorsement extending, form of, 311
 - form of, 310, 311
 - grant of, 303

LOAN,

- industrial estate company, to, development areas in, 145, 147
- local authority, to, applications for, procedure, 174—176
 - consolidates loans fund, power to carry to, 159, 162
 - existing loan, to repay, 175
 - fees for, 159, 160
 - regulations as to, 168, 169
 - schedule of, 169
 - interest on. *See* INTEREST.
 - loans pool, power to carry to, 159, 162
 - minimum rate of interest, amendment of enactments relating to, 159, 162
 - provision of money for, 159, 160
 - repayment of, 159, 161
 - statutory provisions, 158—164
- Public Works Loan Commissioners, by. *See* PUBLIC WORKS LOAN COMMISSIONERS.
- trading company, to, development area, in, 145, 147

LOAN COMMISSIONERS,

- duties of, 171, 172

LOCAL AUTHORITIES,

- acquisition of land by, 239, 267—269
- actions by and against, 1
- air raid precautions schemes by, suspension and revival of, 3, 4—6
- allocation of areas of. *See* AREA.
- alteration of status of, object of, 18
- borrowing by, restrictions on, 158, 160, 169—171, 173
- building licences, duties respecting, 225
- changes in functions of, compensation of officers on war service affected by, [343, 344]
- compulsory purchase of land by. *See* COMPULSORY PURCHASE OF LAND.
- death duties on land acquired by, relief from, 166, 167
- interim development by, regulations for, 475, 476
- loans to. *See* LOAN.
- moneys forming part of capital funds, use of, 159, 163
- offices of, emoluments, meaning of, 346
 - office, meaning of, 347
 - war service, on, compensation of. *See* COMPENSATION.
 - meaning of, 347
- staffs of, cost of living bonus to. *See* COST OF LIVING BONUS.
- water rights, power to acquire, 550, 551
- supply, duties in respect of, 527, 532, 533, 552, 553

LOCAL EDUCATION AUTHORITY,

- definition of, 450

LOCAL GOVERNMENT BOUNDARY COMMISSION,

- alteration of areas by, 11—19
 - notice of, 17
- annual report of, 14
- areas, review of, 12
- common seal of, authentication of, 15
- constitution and proceedings of, 11, 15, 16
- disqualifications for membership of, 15
- documents of, evidence, as, 16
- establishment of, 11, 12
- expenses of, 15
- inquiries by, 14, 17, 18
- Ministry of Health regulations for, 16—19
- officers, appointment and salary of, 15
- orders of, objections to, 13
 - supplementary provisions as to, 14

LOCAL GOVERNMENT BOUNDARY COMMISSION—*continued*

- powers of, 11—19
- proof of documents, 16
- quorum for, 15
- regulations governing, 16—19
- review of constituencies by, 34, 58, 59
- rules of procedure for, 17, 18
- salary of member of, 15
- secretary, appointment and salary of, 15
- servants, appointment and salary of, 15
- terms of office of members of, 15

LOCAL GOVERNMENT ELECTION,
definition of, 90LOCAL INQUIRIES,
allocation of areas, on, 14, 17, 18LOCAL LOANS FUND,
establishment of, 158
finance of, 158, 159, 160, 161
management of, 158
money issued out of, authority for, 158
purpose of, 158LOCAL PLANNING AUTHORITY,
definition of, 250, 289, 305LONDON,
elections in, postponement of, 41, 42
licensing planning, area, as, 304
committee for, 304LONDON COUNTY COUNCIL,
elections, electoral registration regulations as to, 141LORD CHAIRMAN OF COMMITTEES,
defined in connection with Statutory Orders, 434MACK-TRUCK TIPPERS,
use of, 422MAINS,
highway, on, retention by Minister of War Transport, 238, 259, 260
application to High Court respecting, 238, 262, 263
Orders, duration of power to make, 263
publication of, 238, 260, 261
validity and operation of, 238, 262, 263
temporary continuance of, 263, 264
War Works Commission, reference to, 238, 260, 261
proceedings after, 238, 261, 262
water, limits of supply, outside, 589, 590
power to lay, 589, 590MANAGERS,
public elementary schools, of, teachers employed in, saving of superannuation
[rights of, 445
registration of, expenses of, temporary provisions as to, 60, 61MATERIAL DATE,
meaning of, 351MAY 1945 REGISTER,
duration of, 47
initiation of, 47
publication of, 33
purpose of, 45, 46, 47
substitution of, 100

MAYOR,

election of, extension of time for acceptance of office, 71, 72
returning officer, as, 132, 133

MEDICINE,

sale of, label incomplete, liability when, 191

MEETINGS,

Local Government Boundary Commission, quoram at, 15

MEMBERS OF LOCAL AUTHORITY,

qualification to become, modification of, 40, 41

METROPOLITAN BOROUGH,

council elections, electoral registration regulations as to, 141
councillors, casual vacancy, filling, 37, 38, 39
election of, resumption of, 32, 37
wartime, retirement of, 32

METROPOLITAN BOROUGH COUNCIL,

loan to, consent for, 174

MILK,

certificates of analysis, service with summons, 191, 192
water added to, case concerning, 190

MINCEMEAT,

sale by wholesale, deposit on returnable package, 187

MINERALS,

waterworks, underlying, provision as to, 587—589

MINES,

underground water works, near. *See* WATERWORKS.

MINING UNDERTAKERS,

meaning of, 461

MINISTER OF AIRCRAFT PRODUCTION,

acquisition of land by, 245

MINISTER OF EDUCATION,

transfer of functions to, Camps Act 1945, under, 353

MINISTER OF HEALTH,

alteration of areas, regulations as to, 16—19
Building Materials and Housing Fund, payments into, by, 218, 221
cancer, circular on, 30, 31
diseases, circulars as to, 29—31
functions of, Minister of National Insurance, transfer to, 312, 313
transfer of functions of, Camps Act 1945, under, 353
tuberculosis, circular on, 29
water, default powers in relation to, 527, 538—540
duty in relation to, 527, 530

MINISTER OF HOME SECURITY,

civil defence functions, transfer of, to, 7

MINISTER OF LABOUR AND NATIONAL SERVICE,

functions of, Minister of National Insurance, transfer to, 332—334
unemployment insurance emergency regulations of, 340

MINISTER OF NATIONAL INSURANCE,

transfer of functions and property to, 312, 313, 332—334

MINISTER OF WAR TRANSPORT,

acquisition of land by, 245
cable on highway, retention of, 258—264
highways, stopping up or diversion of, 258, 259
main on highway, retention of, 258—264

MINISTER OF WAR TRANSPORT—continued

- pipe on highway, retention of, 258—264
- railway on highway, retention of, 258—264
- tramway on highway, retention of, 258—264
- vehicles and drivers, emergency powers respecting, 412—416
- wires on highway, retention of, 258—264

MINISTER OF WORKS,

- acquisition of land by, 245
- advances for building materials to, 218, 219, 220
- building undertaking, direction to, 20, 21
- civil engineering works, direction to, 20, 21
- establishment of, 245

MOTOR VEHICLES,

- fuel, restriction on use of, Order revoking, 422
- special types, order authorising use of, 421, 422
- tyres, restriction on use of, order revoking, 422

NATIONAL EMERGENCY,

- temporary constables required in, pension provisions for, 368

NATIONAL FIRE SERVICE,

- fire areas of, alteration of, regulations as to, 180, 181
 - schedule, 181
- fire brigade pensions benefits, extension of, to members of, 186
- former policemen in, preservation of pensions regulations respecting, 179, 180
- police pensions benefits, extension of, to members of, 185
- region defined for purpose of, 182
- Regional Commissioner, amendments consequential on relinquishment of office, [182, 183]
- resignation from, amendments respecting, 181

NATIONAL JOINT COUNCIL,

- cost of living bonus, promulgation of, 177

NATIONAL REGISTER. See CENSUS.**NATIONAL REGISTRATION,**

- change of residence, notice of, 26, 27
- regulations amending, 26—29
 - for, war workers, in respect of, 115, 116

NAVIGATION AUTHORITY,

- definition of, 570, 582
- protection of works of, 611, 612

NEGLECT,

- duty of, auxiliary policewomen, by, 393

NEGLIGENCE,

- air raid shelter, in management of, liability, 7, 8

NON-COUNTY BOROUGH,

- alteration of areas in, 12

NORTHERN IRELAND,

- Building Materials and Housing Act, 1945, application of, to, 227
- business premises register in, service applications for registration in, 101
- Compensation of Displaced Officers (War Service) Act, 1945, application of, to, [348]
- compulsory purchase of land in, 294, 295
- Representation of the People Act, 1945, application of, to, 62—64
- The Electors and Jurors Act, 1945, application of, to, 91, 92

NOTICE,

- business premises applications, of, 118, 119
- compulsory acquisition of land, of proposals for, 237, 249

NOTICE TO TREAT,

- acquisition of land, in case of, 274, 275
- easements, to acquire, 275
- land occupied by Government War Works, in case of, 239, 269, 270
- restrictive rights, to acquire, 275

NURSES,

- agency for the supply of, classes of nurses supplied, 211
 - definition of, amendment of, 198, 199
 - licence to carry on. *See* LICENCE.
 - records to be kept by, 204
 - regulations for, 202—204
 - statement in writing, form of, 206
 - necessity for, 203
 - what included in term, 199
- assistant, training of, circular as to, 209
- Christian Science nurse, use of title, 206
- enrolled assistant nurse, restrictions on use of title, 200—202
- maternity nurse, use of title, 200, 201
- nurse, use of title, 201, 202, 210, 211
- pupil assistant nurse, use of title, 201
- registered nurse, restrictions on use of title, 200—202
- service trained male nurse, use of title, 202
- student nurse, use of title, 201
- trained nurse, use of title, 200, 201

OFFENCES,

- civil defence, as to, suspension of penalties, 6, 7

OFFICE,

- definition of, 347

OFFICERS,

- Local Government Boundary Commission, of, appointment and salary of, 15

OPEN SPACE,

- compulsory purchase of, overriding provisions as to, 256
- definition for purpose of compulsory acquisition of land, 289
 - Housing (Temporary Accommodation) Act, 1945...217
- temporary housing accommodation, use during limited period for, 215—217

OVERTIME,

- auxiliary policewomen, for, 408

PARCEL OF LAND,

- meaning of, 513

PARISH,

- alteration of boundaries of, 11, 12
- councillors, casual vacancy, filling, 37, 38, 39
 - election of, resumption of, 32, 37
 - wartime, retirement of, 32

PARISH COUNCIL,

- elections, electoral registration regulations as to, 140, 141

PAY. *See* REMUNERATION.**PEERS,**

- proxy voting by, local elections, at, 120
- service register, registration in, 120

PENSIONS,

- auxiliary policewomen, of, 391, 392
- British police forces in areas of occupation, provisions as to, 366
- Forestry Commissioners, of, 359
- increase of, amendment regulations respecting, 454—456
 - circular respecting, 456—458

PENSIONS—continued

- police war reservist, for, rules as to, 377
- special constables, for, injured on duty, 369
- temporary constables, national emergency injury, in respect of, 368

PERIOD OF SUSPENSION,

- definition of, 6

PERIOD OF THE PRESENT EMERGENCY,

- definition of, 346

PERMANENT EQUIPMENT FOR BUILDINGS,

- definition of, 225

PETITION,

- statutory order, against, form of, 427
 - petition of amendment, 424
 - general objection, 424
 - presentation of, time for, 424, 426
 - reference of, 424
 - report as to, proceedings consequent upon, 427, 428

PIPE,

- highway, on, retention by Minister of War Transport, 238, 259, 260
 - application to High Court respecting, 238, 262, 263
 - Orders, duration of power to make, 263
 - publication of, 238, 260, 261
 - validity and operation of, 238, 262, 263
 - War Works Commission, reference to, 238, 260, 261
 - proceedings after, 238,
[261, 262]
- temporary continuance of, 263, 264

POLICE,

- auxiliary, police councils, representation on, 368
- employment, continuation in, Order revoking, 398, 399
- inspector, leave of absence, period of, 401
- overseas, engaged, special provisions as to, 366, 367
- regulations, amendments to, 401—403
- retirement from, certificate on, 402
- scale of pay for, 370—373
- sergeant, scale of pay for, 370—373
 - leave of absence, period of, 401

POLICE FORCES,

- amalgamation order, Wiltshire and New Sarum, for, 398, 399
- approved service, meaning of, 403, 406
- auxiliary service, consideration of, 403
- British. *See* BRITISH POLICE FORCES.
- Home. *See* HOME POLICE FORCE.
- leave of absence, periods of, 401
- personal record of members of, 402
- substantive rank in, 401

POLICE WAR RESERVE,

- discipline, rules as to, 373, 374

POLICE WAR RESERVIST,

- absence without leave, 380
- appeal by. *See* APPEAL.
- appointment of, 373
 - notice of termination of, 378
- breach of confidence by, 380
- caution to, effect of, 374
- clothing for, provision of, 377
- corrupt practice by, 380
- damage to clothing or articles supplied to, 381
- discreditable conduct by, 379

POLICE WAR RESERVIST—*continued*

- disobedience to orders, 379
- drunkenness, 381
- duty, drinking on, 381
 - entering licensed premises while on, 381
 - late for, 380
- equipment for, provision of, 377
- falsehood by, 380
- finest, restriction on, 375
- hours of duty, 375
- insubordinate conduct by, 379
- late for duty, 380
- leave of absence, 375
 - periods of, 407
- lodging allowance, 377
- malingering by, 380
- necessaries for, provision of, 377
- neglect of duty by, 379
- offences against discipline by, procedure, 373, 374
 - punishment, 374
- offensive conduct by, 379
- pay and allowances, 376, 377
- pensions, rules as to, 377
- personal record of, 375, 376
- Police Regulations defined for purpose of, 378
- prevarication by, 380
- promotion of, 375
- punishment of, entry of, 374
- reduction in pay, limitation on, 375
- retirement of, certificate on, 376, 407
- service of, reckoning for promotion, etc., 378
- soliciting drink, 381
- suspension of, 374
- uncleanliness by, 381
- unlawful or unnecessary exercise of authority by, 380

POLICEWOMAN,

- approved service, meaning of, 406
- auxiliary. *See* AUXILIARY POLICEWOMAN.
- leave of absence, periods of, 404
- personal record of, 405
- probationary period, dispensation of, 404
- retirement of, certificate on, 405
- scale of pay for, 371—373
- substantive rank for, 404

POLLUTION,

- river, of, sewage, by, liability of local authority, 341
- water supply, of. *See* WATER SUPPLY.

POST,

- voting by, Civilian Residence Register, by persons on, 76, 82, 83
 - electoral registration regulations as to, 106
 - seamen, by, forms for, 114
 - service voters. *See* SERVICE VOTER.
 - university elections, at, 33, 54, 55

POSTAL VOTING AREA,

- definition of, 58

POSTMASTER GENERAL,

- acquisition of land by, 245

PREMISES,

- industrial, definition of, 151, 250

PRESCRIBED,

definition of, 58, 90, 570, 582

PRISONER OF WAR,

registration of, electoral registration regulations for, 109
extension of time for, 33, 50
supplementary register, in, 75, 81

PRISONERS OF WAR,

transport of, 415

PRISONS,

Rules 1945, provisions of, 409, 410

PRIVATE STREETS,

private street works, charge on premises, action to enforce, 1

PROMOTION,

auxiliary policewomen, of, 385, 388, 389, 391
reckoning of service for, 392
police war reservist, of, reckoning of service for, 378

PROPRIETOR,

school, meaning of, 441

PROVISIONAL ORDER PROCEDURE,

objection to, 423, 424
origination of, 423
uses of, 423

PROVISIONAL ORDERS,

Statutory Orders (Special Procedure) Act, 1945, application of, to, 424, 430

PROXIES,

absent voters, for, electoral regulations as to, 102, 103
peers, for, local elections, at, 120
service voters, for. *See* SERVICE VOTER.
war workers, for, university elections, at, 99

PUBLIC APPOINTMENT,

meaning of, 51

PUBLIC AUTHORITY,

officer of, war service, on, power by Order in Council to provide compensation
for, 345, 346

PUBLIC ELEMENTARY SCHOOLS,

managers of, teacher employed as, saving of superannuation rights of, 445

PUBLIC HEALTH,

housing cases, 231, 232

PUBLIC SERVICE VEHICLES,

bomb damage workers, transport of, 412
emergency regulations affecting, 412—416
extension of driving licences, 415
licences. *See* LICENCE.
permit to drive, 415
prisoners of war, transport of, 415
prosecution for not having licence, defence to, 412, 415
unlicensed driver, defence to prosecution as, 412, 415

PUBLIC UTILITY UNDERTAKERS,

definition of, 347
officers of, war service, on, power by Order in Council to provide compensation
[for, 345, 346]

PUBLIC UTILITY UNDERTAKINGS,

restrictions and suspensions relating to, removal of, 195, 196

PUBLIC WORKS LOAN COMMISSIONERS,

applications to, procedure for, 174—176
constitution of, 160

PUBLIC WORKS LOAN COMMISSIONERS—*continued*

- loans by, fees for, 159
 - interest on, 159
 - repayment of, 159, 161
- power of, 158, 159, 160
- prohibition of borrowing otherwise than from, 160
- regulations of, 171, 172
- secretary of, duties of, 171, 172

PUNISHMENT,

- auxiliary policewomen, of, 387
- police war reservist, of, entry of, 374

PURCHASING AUTHORITY,

- meaning of, 513

QUARTER SESSIONS,

- amendment of valuation list, jurisdiction to entertain appeal as to, 416—418
- appeal to, water undertakers, from, 611

QUORUM,

- Local Government Boundary Commission, for, 15

RAILWAY,

- highway, on, retention by Minister of War Transport, 238, 259, 260
 - application to High Court respecting, 238, 262, 263
 - Orders, duration of power to make, 263
 - publication of, 238, 260, 261
 - validity and operation of, 238, 262, 263
 - War Works Commission, reference to, 238, 260, 261
 - proceedings after, 238, 261, 262
- temporary continuance of, 263, 264

RATEPAYERS,

- register of, 32
 - application for registration, notice as to, 121
 - electoral registration regulations, application of, to, 120
 - form of, 120
 - registration in. *See* REGISTRATION.
 - scope of, 32, 47

REGIONAL COMMISSIONER,

- civil defence functions of, transfer of, 7

REGIONAL TRANSPORT COMMISSIONERS,

- defence permits, grant of, by, 413

REGISTER,

- annual. *See* ANNUAL REGISTER.
- business premises. *See* BUSINESS PREMISES.
- civilian residence. *See* CIVILIAN RESIDENCE REGISTER.
- electors, of, annual register, 33, 45, 47
 - marking of names in, 101
 - May 1945 register, 33, 45, 46, 47
 - preparation of, suspension and resumption of, 32, 47
 - sale of copies of, 102
 - transitional provisions, 51, 52
- general, contents of, 32, 47
 - preparation and scope of, 47
- living accommodation, of, regulations as to, 228, 229
- May 1945. *See* MAY 1945 REGISTER.
- National. *See* CENSUS.
- preparation of, transitional powers, 77, 88
- ratepayers. *See* RATEPAYERS.
- service. *See* SERVICE REGISTER.
- supplementary. *See* SUPPLEMENTARY REGISTER.

REGISTRATION,

- annual register, in, temporary provisions as to, 75, 78
- births, deaths and marriages, of, expenses of, temporary provisions as to, 60, 61
- building licences, of conditions imposed by, 225
- business premises register, in, application for, form of, 118, 122, 123
 - notice of, 12
 - service men in Northern Ireland, [by, 101
- war workers, of, 98
- civilian residence register, in, provisions as to, 66, 67
 - war workers, of, 98
- compulsory purchase orders, of, 513—515
- declaratory orders, of, 513—515
- electoral, annual register, regulations as to, 100—102, 117—119
 - approval of, 89
 - arrangement of, 94, 95
 - division, in more than one, provisions as to, 66
 - prisoners of war, extension of time for, 33, 50
 - qualification for, service voter abroad, 33, 34, 36
 - regulations, 100—102, 117—119
 - approval of, 62
 - meaning of, 62
 - war workers, application to, 97—100
 - temporary provisions as to, 45—52
- living accommodation, of, householder, by, 228, 229
- local government electors, as, provisions as to, 66, 67
- officer, annual register, sale of, by, 102
 - appeals from, 33, 50, 51, 76, 85, 86, 101
 - electors lists, sale of, by, 102
 - Order 1945 as to, 131, 132
 - town clerk as, 131, 132
- peers, of, service register, in, 120
- prisoner of war, of, extension of time for, 33, 50
 - supplementary register, in, 75, 81
- ratepayers register, in, form of application for, 120, 124, 125
 - Scotland, in, 125—127
 - notice as to application for, 121
 - provisions as to, 66, 67
- service register, in, peers, 120
 - provisions as to, 66, 67
- supplementary register, in, civilian voters, of, 75, 80
 - prisoner of war, of, 75, 81
 - service voters, of, 75, 79
- war workers, of. *See* WAR WORKERS.
- ward, in more than one, provisions as to, 60

REMUNERATION,

- auxiliary policewomen, of, 385, 388, 389
 - reckoning of service for, 392
 - reductions in, 387
 - scale of, 408
- constable, of, 370—373
- Forestry Commissioners, of, 353
- Local Government Boundary Commission, of member of, 15
- police sergeant, of, 370—373
 - war reservist, of, 376, 377
 - reduction in, limitation on, 375
- policewoman, of, 371—373
- special constable, of, 400

RENT,

- new house, of, restriction on, 223—225

RESERVOIRS,

regulations 1945 as to, 617, 618

RESIDENCE,

declaration of, form of, 65, 114, 115
meaning of, 96

RESIDENTIAL PURPOSES,

definition of, 228
housing accommodation, use of, other than for, consent to, 227

RETIREMENT,

auxiliary policewomen, of, 390, 408
police, from, certificate on, 402
war reservist, of, certificate on, 376, 407
policewoman, of, certificate on, 405

RETURNING OFFICER,

contested election, at, disbursements allowable, 135—138
fees payable to, 134, 135
fees for services, Treasury Order as to, 134—139
mayor as, 132, 133
Order 1945 as to, 132, 133
Scottish constituency, for, 87
uncontested election, at, disbursements allowable, 139
fees payable to, 135

RETURNS AND REPORTS,

election expenses, of, extension of time for, 72
Local Government Boundary Commission, of, 14

REVERSIONARY INTERESTS,

power to acquire, 274

RIVER,

pollution by sewage, liability of local authority, 341

RURAL DISTRICT,

alteration of areas in, 12

RURAL DISTRICT COUNCIL,

air raid precautions scheme, duty to prepare, 4
elections, electoral registration regulations as to, 140

RURAL DISTRICT COUNCILLORS,

election of, rules as to, 143

SALARY. See REMUNERATION.**SAMPLES,**

food, regulations for taking, 190

SANATORIA,

patients, education for, circular respecting, 207—209

SCHEME,

civil defence, suspension and revival of, 3, 4—6
interim development, meaning of, 461

SCHOOL,

controlled, definition of, 345
definition of, 451
proprietor, meaning of, 441
secondary, pre-nursing courses in, circular as to, 213, 214
special agreement, definition of, 345
technical, pre-nursing courses in, circular as to, 213, 214
Treasury-approved, service in, contributory service, conditions satisfying, 441
treated as, 439
water supply for, extension of duty to provide, 552

SCOTLAND,

- Building Materials and Housing Act 1945, application of, to, 226, 227
- Compensation of Displaced Officers (War Service) Act 1945, application of, to, [348]
- compulsory acquisition of land in, 291—294
- council elections, proxy voting by service voters at, 58
 - resumption of, 32, 42, 43
- councillor, meaning of, 74
- development areas in, 153
- distribution of industry in, provision for, 152
- elections in, resumption of, 32, 42, 43
- Forestry Act, 1945, application of, to, 356
- Housing (Temporary Accommodation) Act, 1945, application of, to, 217
- Local Authorities Loans Act, 1945, application of, to, 164
 - election, meaning of, 74
 - housing authority defined for purpose of, 228
- qualification for membership of councils in, 43, 44
- ratepayers register in, form of application for registration in, 125—127
- statutory order extending only to, 431—433
- The Elections and Jurors Act, 1945, application of, to, 91
- town councillors, term of office of, extension of, 43

SEAMEN,

- postal voting by, applications for, forms for, 114

SECRETARY OF STATE FOR AIR,

- acquisition of land by, 245

SECRETARY OF STATE FOR WAR,

- acquisition of land by, 245

SERVICE,

- meaning of, 351

SERVICE DECLARATION,

- attestation of, service voter abroad, by, 109
- definition of, 90, 91
- form of, 64

SERVICE REGISTER,

- modifications as to, 47
- registration in. *See* REGISTRATION.
- use of, 74
- war workers, proxy voting by, 99
 - right to register in, 97

SERVICE VOTER,

- abroad, attestation of service declaration by, 109
 - voting by, provision for, 33, 52—58
- absent voter, voting by post as proxy for, 103, 104
- business premises application by, 33, 48, 49
 - on behalf of, 49, 50, 119
 - register, on, provisions for, 48, 49
- double vote, provisions to prevent, 33, 53
- election address, sending of, to, 108
- postal list, electoral registration regulations as to, 105
 - voting areas for, 108, 115
 - by, 48, 52, 53
 - applications for, 104
 - forms for, 114
 - consequential provisions as to, 33, 55, 56
 - university elections, at, 54, 55
- proxy voting by, 48, 57, 58, 103
 - post, by way of, 76, 83, 84
 - provisions for superseding, 53, 54
 - Scotland, in, 58

SERVICE VOTER—*continued*

supplementary register, registration in, 75, 79, 80

triennial elections, at, postal voting by, 33

university elections, at, extension of persons who may be appointed proxies
[for, 56, 57]

SEWAGE,

pollution of river by, liability of local authority, 341

SEWERS,

water supply for cleansing, 594

SHEDS,

water supply to, 599, 600

SPECIAL AREAS FUND,

wind up of, 146, 149

SPECIAL CONSTABLE,

pay of, 400

pension for injury on duty, 369

post-war credit, 369

service of, reckoning of, 400

SPEED LIMIT,

hours of darkness, during, emergency order as to, 422

STANDING ORDERS,

joint committee, powers on opposed, 428

meaning of, 434

Statutory Orders (Special Procedure) Act, 1945, for purpose of, 431

STATUTORY ORDERS,

advertisement of, 434

amendment of enactments conferring power to make, 435—437

Chairman of Ways and Means, meaning of, 433

inquiries respecting, 434

joint committee, costs awarded by, 429

local authority, meaning of, 433

Lord Chairman of Committees, meaning of, 434

new procedure applicable to, 424, 426

objections to, consideration of, 434

operation of, 424, 425, 428, 429

order, meaning of, 434

petitions against. *See* PETITION.

prescribed, meaning of, 434

preliminary proceedings in respect of, 424, 426

Scotland, extending only to, 431—433

the applicant, meaning of, 434

Minister, meaning of, 434

STOCK,

issue includes re-issue, 562

meaning of, 562

preference, meaning of, 562

redeemable, meaning of, 562

redeemed, meaning of, 562

STOPCOCK,

position, etc., of, provisions as to, 597

SUPERANNUATION,

allowance, scale of, 60

eligibility for, 59, 60

appropriate superannuation fund, definition of, 60

contributory employer, change of office by, effect of, 458, 459

employee, definition of, 60

rights of, provision as to, 59, 60

SUPERANNUATION—*continued*

- education service, of persons not teachers serving in, 441, 442
- interim registrar formerly contributory employee as Poor Law Officer, 458, 459
- local Act contributor, definition of, 60
- school teachers, 438—453
 - actuarial inquiries, 449
 - appropriate superannuation fund, meaning of, 447
 - approved school, meaning of, 450
 - certified teacher, meaning of, 449
 - contributory service, meaning of, 439, 440, 450
 - past service treated as—
 - past contributions, meaning of, 447
 - payment of employee's contributions in respect [of, 446, 447
 - service before 1st April, 1945, treated as, 451, 452
 - transitional provisions, 440
 - war service treated as, 448
 - youth service treated as, 440
- financial provisions, 450
- former authority, meaning of, 450
- independent superannuation scheme, meaning of, 443
 - provisions with respect to, 442—445
- local education authority, meaning of, 450
- manager of public elementary schools, employed as, saving of rights of, 445
- Minister, meaning of, 450
- miscellaneous amendments of enactments relating to, 449, 450, 452
- non-contributory service, reckoning for pension, 445
- period of war service, meaning of, 448, 450
- prescribed, meaning of, 450
- proprietor, meaning of, 450
- recorded service, meaning of, 449
- scheme for further education, meaning of, 450
- school, meaning of, 451
- second or subsequent annual allowance, grant of, 447
- service, meaning of, 451
 - not contributory or recognised, reckoning for pension, 445
- teacher, meaning of, 451
- war service, meaning of, 451

SUPPLEMENTARY REGISTER,

- ancillary pensions as to, 75, 81, 82
- civilian voters, registration of, in, 75, 80
- classes catered for, 75
- person registered in, right to vote, 75, 81
- postal voting by civilian voter, 75, 82, 83
- preparation of, 75, 79
- prisoner of war, registration of, in, 75, 81
- publication of, 75, 80
- registration in. *See* REGISTRATION.
- service voters, registration of, in, 75, 79, 80

SUSPENSION,

- auxiliary policewomen, of, 386, 387
- compensation of officer of local authority on war service re-employed, of, 350
- defence permits, of, 414
- elections, of, 32, 37, 38
- Police War Reservist, of, 374

TEACHER,

- certified, meaning of, 449
- definition of, 451
- manager of public elementary school, employed as, saving of superannuation [rights of, 445
- recorded service, meaning of, 449

TEACHER—continued

superannuation. *See* SUPERANNUATION.

war service, on, compensation on re-employment at reduced salary, 344, 345
 contributions, meaning of, 448
 right to require payment of, 448
 contributory service, treated as, 448

TELEGRAM,

acceptance of office by, 71

TELEGRAPHIC LINE,

deep line, meaning of, 266
 definition of, 265, 289
 emergency constructed, compensation in case of, 238, 265, 266
 general provisions as to, 264, 265
 properly constructed, consideration as, 238, 264, 265
 removal of, power of owner, etc., to require, 238, 265

TEMPORARY CONSTABLE,

national emergency, injured in, pension provisions for, 368
 Women's Auxiliary Police Corps, in, pension rights of, 368

TENDERS,

permanent houses, for, information to accompany, 230

TENTS,

water supply to, 599, 600

TOWN AND COUNTRY PLANNING

acquisition of land in areas of war damage, circular in respect of, 518—522
 amendment regulations, 511, 512
 compensation for war-damaged land, 499—510
 appeal, application for leave to withdraw, 509
 form of notice of, 508, 509
 notice of, 506
 arbitrator, decision of, form of, 510
 defined for purpose of, 500
 claimant defined for purpose of, 500
 hereditament defined for purpose of, 500
 interested person defined for purpose of, 506
 reference, application for leave to withdraw, 509
 Committee defined for purpose of, 500
 form of notice of, 508, 509
 valuation officer defined for purpose of, 500
 compulsory purchase, contemporaneous procedure regulations as to, 481
 order. *See* COMPULSORY PURCHASE ORDER.
 declaratory order, making of, advertisement and personal notice of, form of,
 [483, 484
 application for, advertisement and personal notice of, form
 [of, 483
 form of, 482, 483
 representation by statutory undertaker with reference to,
 [form of, 484
 interim development, 460, 471
 amendment regulations, 476
 authorities empowered to grant permission for, 462
 buildings, applications by mining undertakers relating to, 465, 466
 persons having statutory powers relating to, 465
 cancellation and variation of directions, 468

TOWN AND COUNTRY PLANNING—*continued*

interim development,

existing building, meaning of, 461

general direction, 474

Government department, meaning of, 461

highway, meaning of, 461

imposition of conditions, restrictions on, 465

interim development authority, meaning of, 461

power of, 466, 467

local authorities, by, regulations for, 475, 476

authority, meaning of, 461

London, provisions as to, 467, 468

mining undertakers, meaning of, 461

Minister, powers of, 468

permission, applications for, consultation, 467

form of, 466

special types of, 466

grant of, form of, 467

refusal of, form of, 467

restrictions on, 465, 466

permitted, 462—464

Class I, 462

II, 462

III, 462

IV, 463

V, 463, 468—470

exclusion in particular areas, 463, 464, 470, 471

cases, 464

resolution, meaning of, 461

revocation of previous orders and saving, 468

sanctions for, 461, 462

scheme, meaning of, 461

service of notices, 468

supplementary provisions, 467, 468

war damage, meaning of, 461

works, applications for making good war damage relating to, 465

land given in exchange, advertisement of certificate where, form of, 498, 499

orders and notices, particulars and form of, regulations as to, 481—499

registration of orders and rules, 1945...512

sale of land for building purposes, circular in respect of, 525, 526

transitional amendment Order, 1945...510, 511

TOWN CLERK,

registration officer, as, 131, 132

TRADING COMPANY,

definition of, 152

financial assistance to, 145, 147

TRAMCAR,

conductor of, extension of licence of, 415

TRAMWAY,

highway, on, retention by Minister of War Transport, 238, 259, 260

application to High Court respecting, 238, 262, 263

Orders, duration of power to make, 263

publication of, 238, 260, 261

validity and operation of, 238, 262, 263

War Works Commission, reference to, 238, 260, 261

proceedings after, 238,

[261, 262]

TRANSPORT,

bomb damage repair workers, of, 412

prisoners of war, of, 415

- TREASURY,**
 advances for building materials by, 218, 219, 220
- TRICYCLES,**
 rear lamps, cesser of exemption from obligation to carry, 420
 red reflectors, necessity to carry, 420, 421
 stationary, lights, temporary relaxation of obligation to show, 421
 white surfaces, necessity to exhibit, 420, 421
- TROLLEY VEHICLE,**
 conductor of, extension of licence of, 415
- TUBERCULOSIS,**
 Ministry of Health circular on, 29
 patients, education for, circular respecting, 207—209
- TYRES,**
 motor, restriction on use of, Order revoking, 422
- UNEMPLOYMENT INSURANCE,**
 emergency regulations as to, 340
- URBAN DISTRICT**
 alteration of areas in, 12
- URBAN DISTRICT COUNCIL,**
 air raid fire precautions scheme, duty to prepare, 4
 elections, electoral registration regulations as to, 140
- URBAN DISTRICT COUNCILLORS,**
 election of, rules as to, 142
- VALUATION LIST,**
 alteration in, water rate, effect on, 601
 amendment of, jurisdiction of quarter sessions to entertain appeal as to, 416—
 [418
 order of certiorari, application for, 418
 water undertakers may obtain copies on payment, 609
- VALUATION OFFICER,**
 compensation for war-damaged land, in respect of, 504
- VANS,**
 water supply to, 599, 600
- VEHICLES,**
 goods. *See* GOODS VEHICLE.
 motor. *See* MOTOR VEHICLES.
 public service. *See* PUBLIC SERVICE VEHICLES.
- VOLUNTARY HOMES,**
 regulations respecting, 233, 234
 schedule of particulars respecting, 234
- VOTES,**
 counting of, electoral registration regulations as to, 107, 108
- WALLASEY,**
 wild birds, protection of, in, 9
- WAR DAMAGE,**
 acquisition of land in areas of, circular in respect of, 518—522
 definition of, 306, 461
- WAR DAMAGE COMMISSION,**
 compulsory purchase of land, assessment of compensation in case of, 500—505
- WAR OPERATIONS,**
 death the consequence of, regulations amending reports as to, 25
- WAR PERIOD,**
 definition of, 289
- WAR PURPOSES,**
 definition of, 289

WAR SERVICE,

definition of, 347, 348, 451

officer of the local authority on, compensation when re-employed at reduced
[salary, 343, 344

meaning of, 347

period of, meaning of, 448, 450

teachers on, compensation on re-employment at reduced salary, 344, 345

WAR WORK,

meaning of, electoral registration regulations, under, 96

WAR WORKERS,

abroad, appointment of proxies by, 36

extension of franchise to, 36

postal voting by, applications for, forms for, 114

registration of, parliamentary elections, for, 36

civilian residence register, registration in, 98

declaration of residence by, form of, 65

electoral registration rules, application of, to, 97—100

index, compilation of, 115

meaning of, electoral registration regulations, under, 96

national registration regulations for, 115, 116

proxy voting by, 99

registered person defined for purpose of, 115

registration of, business premises register, in, 98

civilian residence register, in, 98

service register, in, 97

service register, on, proxy voting by, 99

university election, proxy voting at, 99

WAR WORKS COMMISSION,

appointment of, 243

cables on highways, retention of, reference to, 238, 260, 261

composition of, 243

compulsory acquisition of land, proposals for, reference of objections to, 237,
[249—250

conditional recommendations by, 253, 254

disqualifications for membership of, 243

dissolution of, 244

expenses of, payment of, 243

functions of, 237, 243

inquiries by, 244

costs of, payment of, 244

members of, appointment and salary of, 243

officers of, appointment and salary of, 243

principles on which to act, 254—256

procedure of, 243, 244

purpose of, 237

reference to, proposals to acquire land and rights, of, 248—251

stopping up or diversion of highway, of, 238, 261, 262

report of, power of Minister on receipt of, 251—253

secretary of, appointment and salary of, 243

servants of, appointment and salary of, 243

stopping up or diversion of highway, reference to, 238, 260, 261

WATER,charges. *See* CHARGES.

compensation, provisions as to, 586

compulsory purchase order in connection with. *See* COMPULSORY PURCHASE
[ORDER.mains. *See* MAINS.

milk, added to, case concerning, 190

rights, local authorities, power to acquire, 530, 531

underground, facilities for obtaining information as to, 527, 533, 534

WATER RATE,

- building supplied by common pipe, in case of, 600
- calculation of, 597, 598
- discount for prompt payment, 601
- liability for, 560, 561
- making and date for payment of, 600, 601
- owner, demand from, 600
- power to revise, 561, 562
- recovery of, 560, 561, 602
- valuation list, alteration in, effect on, 601

WATER SUPPLY,

- a supply of water for domestic purposes, meaning of, 582
- abstraction of water, control of, 540—542
 - records and information respecting, 527, 533
- acquisition of land to protect, 547, 548
- amalgamation of undertakers, 527, 535
- arbitration, mode of reference to, 611
- authorised, meaning of, 581
- baths and washhouses, for, 594
- bridge authority, meaning of, 581
- building byelaws, meaning of, 581
 - meaning of, 581
- bulk, in, 527, 537, 538
- business, meaning of, 581
- byelaws, general provisions as to, 545, 546
 - power of Minister to require, 546, 547
- catchment area, meaning of, 569, 581
 - board, meaning of, 569, 581
 - protection of works of, 611, 612
- central and local planning, 530—534
 - Central Advisory Water Committee, 527, 530
 - Joint Advisory Water Committees, 527, 531, 532
 - Minister of Health, duty of, 527, 530
- clerk, meaning of, 569
- communication pipe, meaning of, 581
 - repair of, 597
 - vesting of, 597
- conservation of resources, 527, 540—548
- constancy and pressure of, 595
- consumer, meaning of, 581
- contamination, byelaws preventing, 527, 543, 544
- continuing offences and penalties, 610
- contravention defined for purpose of, 569
- county district, meaning of, 569, 582
 - meaning of, 582
- cut off, meaning of, 569
- discontinuance of, notice of, waste for, 609
- district, meaning of, 569
- domestic, additional mains, duty to lay, 593
 - agreed charges for, power to make, 598
 - new buildings, for, duty to provide, 559, 560
 - purity, duty as to, 593
 - refrigerating apparatus, use for, 599
 - right to demand, 593
 - used for other purposes, additional charges for, 598
 - water softening apparatus, use for, 599
- drains, for cleansing, 594
- enactment, meaning of, 569, 582
- estimates, power to require, 532
- execution of works to protect, 547, 548
- extension or alteration of, penalty for, 604
- factory, meaning of, 582

WATER SUPPLY—*continued*

- fire authority, meaning of, 582
- fishery board, meaning of, 569, 582
 - district, meaning of, 569, 582
- formulated proposals, power to require, 535
- fraudulent use of, penalty, 604
- highway authority, meaning of, 582
- highways, for cleansing and watering, 594
- hosepipes, contest over use of, 527, 543
- house, meaning of, 582
- houses, for, extension of duty to provide, 552
- inhabited house, to, notice of cutting of, 561
- joint water board, meaning of, 569
- land drainage, agreements as to, 527, 542
 - authority, meaning of, 582
 - meaning of, 569
- limits of supply, meaning of, 569, 582
 - power to break open street forming boundary of, 597
 - supply outside, 527, 536, 537
 - variation of, 527, 538
- local authorities, power and duties of, 527, 532, 533, 548—564
 - authority defined for purpose of, 569, 582
 - enactment defined for purpose of, 570
 - organisation of, 527, 534—540
 - Joint Water Boards, 534
- main, meaning of, 582
- rules, by, power to require, 599
- Minister, default powers of, 527, 538—540
 - meaning of, 570, 582
 - orders, procedure for making, 571—574
- misuse of, byelaws preventing, 527, 543, 544
 - penalty for, 603, 604
- navigation authority, meaning of, 570, 582
 - protection of works of, 611, 612
- non-domestic purposes, for, 551, 552
- offences, summary proceedings for, 610
- owner, meaning of, 570, 582
- pipes, extension or alteration of, penalty for, 604
- pollution of, byelaws preventing, 527, 544, 545
 - gas, by manufacture of, penalty, 605, 606
 - pipes, power to examine, 605
 - penalty for, 527, 547
- premises includes land, 570
- prescribed, meaning of, 570, 582
- public pumps, for, 594
- public purposes, for, 593, 594
- railway company, meaning of, 570, 582
 - protection of works of, 611, 612
- register of rules as evidence, 602
- restriction on right to prosecute, 610
- rivers board, meaning of, 570, 582
- schools, for, extension of duty to provide, 552
- service pipe, meaning of, 582
- sewerage authority, meaning of, 582
- sewers, for cleansing, 594
- sheds, to, 599, 600
- Special Act, meaning of, 580
 - penalty for obstructing execution of, 610
- statutory order, meaning of, 570, 582
 - water undertakers, meaning of, 570, 582
- street, meaning of, 570, 582
- supply of water in bulk, meaning of, 570, 583

WATER SUPPLY—*continued*

- supply pipe, extension or alteration of, penalty for, 604
 - meaning of, 583
 - repair of, 597
- surveys, power to require, 532
- telegraphic line, meaning of, 583
- tents, to, 579, 600
- trunk main, meaning of, 583
- underground water, information as to, 533, 534
- undertakers, meaning of, 583
 - powers and duties of, 527, 548—564
- undertakings, transfer of, 535
- valves and apparatus, interference with, penalty for, 604
- vans, to, 599, 600
- waste, meters, etc., to detect, 605
 - penalty for, 603
 - prevention of, 540—542, 602—604
 - byelaws for, 527, 543, 544
- water fittings, meaning of, 570, 583
 - power to supply, 558, 559
 - waste by non-repair of, penalty, 603
- watercourse, meaning of, 570, 583
- Waterworks Code, modernisation of, 555
- works to be executed by owner, power to require occupier to permit, 610

WATER UNDERTAKERS,

- accounts of, 563, 564
- agreements, procedure for approving, 574—578
- appeal from, 611
- byelaws, procedure for confirming, 575, 576
- cisterns, power to require, 602
- Common Council, expenses of, 567
- communication pipes, laying and maintenance of, 595, 596
- compensation, liability to pay, 611
 - water, provisions as to, 586
- compulsory purchase orders. *See* COMPULSORY PURCHASE ORDER.
- construction of works by, 548
- deviation, permissible limits of, 583
- directors, appointment of, officers as, 564
- dividend, maximum rate of, 606, 607
- documents, authentication of, 567, 568
- domestic supply, new buildings, provision for, 559, 560
- duties, required from, 527, 532, 533
- easements, persons under disability may grant, to, 585
- entry of premises, right of, 565, 566
- false information, penalty for supplying, 565
- financial provisions applicable to, 606—609
- fire hydrants, duty in respect of, 593, 594
- guarantee of local authorities, duty to accept, 559
- land, requisition of, by, 549
 - power to hold and dispose of, 549
- limitation of balance carried forward, 608
- mains, power to lay, 589, 590
- meters, connection and disconnection of, by, 605
- Minister, expenses of, 567
 - inquiries by, 565
- misuse of water, entry of premises to detect, 603
- notices, form of, 561
 - service of, 568
- offences, penalties for, 565
 - restriction to right to prosecute, 565
- officers of, compensation to, 564, 565
- orders, power to revoke and vary, 560

WATER UNDERTAKERS—continued

- powers and duties of, 548—560
- premises, power to enter, 603, 609, 610
- private rights of way, extension of, by, compensation, 583
- redeemable stock, power to issue, 562, 563
- research, power to assist, 608, 609
- reserve and contingency funds, 608
- resolutions, proof of, 568, 569
- sale of stock by auction or tender, 607
- service pipes, power to lay, 590—592
 - require separate, 596, 597
- Special Act, copies of, duty to keep, 611
- stopcocks, fitting and fixing of, 597
- streets, breaking open, 590—592.
 - boundary of limits of supply, proving, 597
 - navigation authorities, protection of, 591, 592
 - notice prior to, 590, 591
 - railway companies, protection of, 591, 592
 - reinstatement, time for, 592
 - supervision of, 591
 - tramway undertakers, protection of, 591, 592
- subsidiary works, power to construct, 584
- superannuation, etc., power to pay, 608, 609
- supply and pressure, duty as respects constant, 595
 - pipes, laying and maintenance of, 595
 - power to repair, 603
- telephone wires, etc., power to lay or erect, 584, 585
- valuation list, copies of, payment for, 619
- waste, entry of premises to detect, 603
 - provisions for preventing, 602—604
- water, limit of power to take, 583, 584
 - rights, power to acquire, 550, 551
- waterworks, minerals underlying, provisions as to, 587—589
- works, construction of, by, penalty for obstructing, 585
 - notice of, by, 609
 - subsidiary, power to construct, 584
 - underground, easements for, power to acquire, 585

WATERCOURSES,

- temporary discharge of water into, 556—558

WATERWORKS,

- construction and maintenance of, 548
- minerals underlying, 587—589
 - map of underground works, preparation of, 587
 - mines, injury to, liability for, 589
 - undertakers, inspection by, 588
 - working of, compensation as affecting, 588
 - inspection of, 588
 - mining communications, power to make, 587
 - notice in respect of, 587, 588
- right to, 587

WELL,

- notice preparatory to sinking, when required, 527, 533, 534

WELSH COMMISSIONERS,

- land vested in, nature of, 23

WILD BIRDS,

- eggs of, protection of, Kent, in, 10
 - Wallasey, in, 9
- protection order, Kent, in, 10
 - Wallasey, in, 9, 10

WIRES,

- highway, on, retention by Minister of War Transport, 238, 259, 260
- application to High Court respecting, 238, 262, 263
- Orders, duration of power to make, 263
- publication of, 238, 260, 261
- validity and operation of, 238, 262, 263
- temporary continuance of, 263, 264
- War Works Commission, reference to, 238, 260, 261
- proceedings after, 238, 261, 262

WOMEN'S AUXILIARY POLICE CORPS. *See* AUXILIARY POLICEWOMEN.

WORKMEN'S COMPENSATION,

- Women's Auxiliary Police Corps excluded from, 368

WORKS,

- definition of, 289

YOUTH SERVICE,

- contributory service, treated as, 440

